

EXECUTIVE SESSION

COMMITTEE ON THE JUDICIARY,
JOINT WITH THE
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: JAMES A. BAKER (DAY 2)

Thursday, October 18, 2018

Washington, D.C.

The interview in the above matter was held in Room 2141, Rayburn House Office Building, commencing at 10:01 a.m.

Present: Representatives Meadows, Jordan, Ratcliffe, and Gaetz.

Mr. Somers. Good morning. This is a continuation of the Committee on the Judiciary and the Committee on Oversight and Government Reform's transcribed interview of James Baker, the former general counsel of the Federal Bureau of Investigation.

I'm not going to read through the entire preamble again. I would just remind the witness that he is required to answer questions to Congress, including congressional staff, truthfully in a transcribed interview.

And the time is now 10:03. I'll turn it over to Mr. Jordan to begin our first hour of questions.

Mr. Jordan. Thank you.

Mr. Baker, thank you again for being here.

I want to pick up where we left off a couple weeks ago. You'd indicated that Mr. McCabe, Andrew McCabe, and Lisa Page came to you after a meeting with Deputy Attorney General Rosenstein where Mr. Rosenstein had said that he was looking at recording the President.

Mr. Baker. I'm sorry, Mr. Jordan. I'm having a little hard time hearing. I don't know what the --

Mr. Jordan. Okay. I'll do it again.

So, when we left off a few weeks ago, we were talking about a meeting you had with Andy McCabe and Lisa Page shortly after the meeting they had with Deputy Attorney General Rosenstein where Mr. Rosenstein indicated he was looking at the possibility of recording the President of the United States.

Tell me when that meeting that you had with -- when was the meeting

you had again with Ms. Page and Mr. McCabe?

Mr. Baker. Okay. First of all, if I can just say, at some point in time, there's something I remembered from last time I'd like to -- that I didn't remember when we were sitting here together. I'd look to talk about that at some point and put that on the record. I don't want to interrupt your flow of questions.

Mr. Jordan. Go do that. If there's something you want to clarify from last time, do that upfront, and then we'll go right back to my question.

Mr. Baker. Okay. Sure. It's not directly related to this, and I'm happy to answer your question that you just asked me.

Mr. Jordan. Okay.

Mr. Baker. So I recalled after -- just actually a few days ago -- that another incident when a -- this time an attorney on behalf of a client came to me and wanted -- came specifically to me and wanted to make information available to the FBI in the form of electronic media that he wanted to get into the --

Mr. Jordan. Different case or same case?

Mr. Baker. Different case.

Mr. Jordan. Okay.

Mr. Baker. Well, a completely different case. Different attorney, different client, but insistent on meeting only with me or the Director. And then he did not have the material with him at the time. We had to actually dispatch FBI agents to go to a -- from a field office to go collect this material. It was in the -- to the best of

my recollection, it was roughly in the late summer, fall of 2016 timeframe.

Mr. Jordan. Can you tell us the case?

Mr. Baker. It was Larry --

Mr. [REDACTED] Mr. Baker, please do answer the question, but if it's in a -- if it's a matter that's totally unrelated to what's being discussed here, I'd ask you not to discuss any specific investigative details. Can you answer the question?

Mr. Baker. Can I give the name of the attorney?

Mr. [REDACTED] The name of the -- absolutely. Yes, sir.

Mr. Baker. Okay. The name of the attorney was Larry Klayman, and he also brought one of his associates with him whose name I don't recall at this point in time, and it was on behalf of a particular client. Anyway, that's what I recalled. And we were talking about that last time, and I did not remember that incident. Now I do.

Mr. Jordan. Okay. Thank you. Let's go back to Mr. McCabe, Ms. Page, and --

Mr. Breitenbach. I'm sorry, Mr. Jordan. Can I just follow up?

Mr. Jordan. Sure.

Mr. Breitenbach. With regard to Mr. Klayman coming to visit you, was it with regard at all to surveillance concerns that he had concerning the general fact pattern that we're here to discuss today?

Mr. Baker. Well, it had to do with surveillance. It had to do with an allegation about unlawful surveillance, but it was -- I believe it was different from any fact pattern that we talked about last time

here.

Mr. Breitenbach. Unlawful surveillance of whom?

Mr. Baker. Of Americans, including government officials.

Yeah. I can go -- I mean --

Mr. Jordan. Who was his client?

Mr. Baker. Can I just -- I'm turning to the Bureau to describe this. So his client was an individual named Dennis Montgomery, who I believe, to the best of my recollection, he said that he had been a U.S. Government contractor and, in the course of that work, had come across evidence of unlawful surveillance by the government of Americans -- and including government officials -- and wanted to give that information to the Bureau, which eventually did take place.

Mr. Jordan. And was this -- I'm sorry. Go ahead.

Mr. Sommers. During what time period?

Mr. Jordan. Yeah. That's what I was going to ask.

Mr. Baker. To the best of my recollection, it's in the late summer, early fall 2016.

Mr. Sommers. And the surveillance, what time period was that?

Mr. Baker. I'm not entirely sure what the timeframe was. It was a significant -- it was -- one of the issues in the case was it was a large amount of data that he had that he wanted to provide, that these -- these disks or other media had a lot of data on them about this, allegedly.

Mr. Sommers. Surveillance by whom?

Mr. Baker. By the U.S. Government itself of Americans,

unlawfully.

Mr. Jordan. Interesting. All right. Thank you. All right. Let's go back to the McCabe-Page-Rosenstein meeting.

When did you talk to Lisa Page and Andy McCabe about the meeting they had with Mr. Rosenstein?

Mr. Baker. I don't remember the particular date. I believe it was shortly after they had met with the Deputy Attorney General, and this was in the days immediately after Director Comey was fired, which I'm drawing a blank on right now.

Mr. Jordan. Just to be clear, then, was it minutes after the meeting, hours after the meeting, or days after the meeting?

Mr. Baker. I believe it was the day after.

Mr. Jordan. The day after?

Mr. Baker. I think so.

Mr. Jordan. Okay. So was that --

Mr. Baker. I believe there were a couple of different meetings, and they -- I believe there were a couple of different meetings, and each time, I think, it was the day after because I believe the meetings went late into the evening. That's to the best of my recollection.

Mr. Jordan. Okay. And is it your understanding that there were multiple meetings that Mr. McCabe, Ms. Page, Mr. Rosenstein had about the potential of recording the President?

Mr. Baker. I don't know. I know that they had multiple meetings with the Deputy Attorney General discussing a lot of things in the immediate aftermath of the firing, and I don't specifically remember

how many times this was discussed.

Mr. Jordan. So, just to be clear, the firing of Mr. Comey took place on May 9th, and then the hiring of the special counsel took place on May 17th. So these numerous meetings and the one you had with Mr. McCabe and Ms. Page took place between the 9th and the 17th?

Mr. Baker. I believe that's correct.

Mr. Jordan. Okay. All right. And you said you took it -- you took it as serious. When they presented it to you, their recollection or their recalling to you what took place in the meeting with Mr. Rosenstein about recording the President and talk about the 25th Amendment, you took it as serious?

Mr. Baker. I took it seriously because my assessment was that they took it seriously.

Mr. Jordan. Right. Okay.

Mr. Baker. I could have been wrong. They could have been wrong. But that's how -- that's what I assessed.

Mr. Jordan. Okay. What did you do then? So you got the deputy -- well, actually you've got the Acting Director of the FBI, Andy McCabe, you've got FBI counsel Lisa Page, who's been intricately involved in this case, the Trump-Russia case, and now you as the FBI general counsel are all taking it seriously that Mr. Rosenstein had said he was going to record the President. What did you do then?

Mr. Baker. I believe that we discussed it internally within the FBI, to the best of my recollection, maybe with a couple other people who were there at the time. And --

Mr. Jordan. And who were those other people?

Mr. Baker. To the best of my recollection, it was Colonel Gattis (ph), I think, who was a high-ranking national security official at the Bureau.

Mr. Jordan. Yep.

Mr. Baker. So I think we talked about it with that small group, but I believe that's it.

Mr. Jordan. So McCabe, Page, Mr. Gattis (ph), one other person.

Mr. Baker. Maybe one other person and myself.

Mr. Jordan. Okay. Do you have any idea who that other person is?

Mr. Baker. It could have been Bill Priestap, but I'm not really sure.

Mr. Jordan. It could have been Mr. Priestap. So five of you have subsequent meeting or meetings?

Mr. Baker. On the -- let's just take them. On the wiretap one -- or not the wiretap, but the wearing a wire, I think it was just one conversation about it.

Mr. Jordan. Okay. And that's in addition to the -- the initial conversation you had with Mr. McCabe and Ms. Page, you have that conversation, you're, like, "Wow, this is serious; they're serious; I'm taking it as serious," and then there's a meeting at some later time?

Mr. Baker. So I'm trying to be clear and not confusing, and I apologize.

I believe that Andy told me about this conversation about wearing a wire. I think separately Lisa told me about it.

Mr. Jordan. Okay.

Mr. Baker. And at some point, it could have been -- I don't think there were more than two conversations about it total, at least with me, but then part of those conversations, including me being told about what happened and then us discussing it -- so I think in some combination of those two conversations, it was informing me, and then let's talk about this idea.

Mr. Jordan. So was there a scheduled meeting? It's like, okay, we need to get Mr. McCabe, Ms. Page, yourself, Mr. Priestap, Mr. Gattis (ph) together to -- a scheduled a meeting where you then talked about how you were going to deal with this?

Mr. Baker. I don't recall that, no.

Mr. Jordan. So these are just conversations in the hall, conversations -- what, they'd stop by your office or a few people would show up?

Mr. Baker. I believe they were in Andy McCabe's office.

Mr. Jordan. Okay. I mean, this is a serious issue that they're talking about recording the President of the United States. Did you do any type of -- did anyone do any type of legal analysis, did you do some, we'd better check some case law, we better look at what we can do, and if we are going to do it, what are the procedures within the Department that you have to go through in order for someone to actually go record an elected official?

Mr. Baker. To my recollection, we didn't do any legal research or anything of that nature.

Mr. Jordan. So then what happened? You just dropped it, like, okay, no big deal?

Mr. Baker. We decided that it was -- my recollection is that the discussion was that this was an idea that did not make any sense from an investigative or operational perspective and really shouldn't be pursued further. That's my recollection.

Mr. Jordan. Go ahead.

Mr. Meadows. So help me. Bring me inside the room with these conversations. Characterize, if you could, for me the attitude of either Lisa Page or Andy McCabe. Were they excited, were they concerned, were they talking about whether this would be done or not? Help me understand what was going on in those conversations.

Mr. Baker. So, obviously, it was a very stressful time to begin with, right --

Mr. Meadows. Right.

Mr. Baker. -- because the Director had just been fired, and so that was number one. And then we were trying to figure out, okay, what do we do, how do we run the organization, what steps need to be taken and so on. I think Andy McCabe had to come up to the Hill, like, the day or two after that, so it was a very, very challenging and stressful and tumultuous time. So that's sort of the background.

And then there are these -- some number of conversations with the Deputy Attorney General about what to do next, what needs to be done,

and my recollection is numerous topics were discussed, and these were among them. The wearing the wire and the 25th Amendment were one of a list, one or two of a list of things that we were going -- that people were going through to try to figure out what to do.

My recollection is that I think, at least with Andy McCabe, that's what I'm remembering more clearly, I think he was sort of -- he was list -- he was sort of going through and summarizing the conversation that he'd had with the DAG and mentioned this with the wearing the wire, and I guess I would say he was sort of stunned, surprised, didn't know how to really react to that kind of a suggestion. It seemed extremely unusual, obviously. So it was surprised, stunned.

Mr. Meadows. But you weren't sitting there laughing about the fact that it was brought up? I guess that's what -- I guess what -- I'm trying to figure out, because if it's a joke, you know, you'll say, "Hey, you can't believe what Rod said," and you end up laughing it off, but it sounds like you had at least two conversations, maybe three conversations about this. And if it's a joke, it's either about the joke being in poor taste or, you know, it's about whether it was a joke or not.

And so help me -- you don't have multiple conversations about something unless it's seriously -- or at least thought to be serious.

Mr. Baker. Yeah. Again, I think, on our side of the street, we thought it was serious. So my recollection is, yeah, it was -- we were stunned and surprised. I don't think people laughed it off as a joke. It wasn't like that, but it was an idea that just did not make a lot

of sense, and operationally to try to pull this off, how are you going to do this? It just -- I'll say that it seemed crazy. I don't remember Andy saying that literally, but it just seemed like a crazy idea that didn't make sense, and so there was no real reason to pursue it further, at least from our perspective.

Mr. Meadows. So one last followup. So you say that this was one of several things that the team discussed in the aftermath of James Comey's firing. Discussed to do what? I guess my question is, was there the feeling that the President needed to be removed from office? I mean, what were the other things? If this is a list, you know, in a litany of long items that you discussed in terms of action items, what were the other action items?

Mr. Baker. So I'm going to pause and just to ask the Bureau if there's any issue with me responding to that question here.

Mr. [REDACTED] May we can confer with the witness?

[Discussion off the record.]

Mr. [REDACTED] Congressman Meadows, at this time, we'll instruct the witness not to answer. I anticipate that you will ask us to seek clarity from our chain of command in reference to this question.

Mr. Meadows. This is not your first rodeo. So, if you will do that, I will say it nicely and politely: Obviously there are concerns, and we all know that there are potential talks about obstruction of justice, and certainly if this gets over into those, but this can't be just singularly about obstruction of justice if there's a long list of things that you were talking about, but --

Mr. [REDACTED] We will seek clarification, and we thank you for the opportunity.

Mr. Meadows. Yeah. And so let me follow up. Obviously you thought it was crazy. Did that get communicated back to Rod Rosenstein that it was crazy?

Mr. Baker. It's a good question. I don't know the answer to it. I'm not sure.

Mr. Meadows. So you did not communicate to Rod?

Mr. Baker. I did not communicate it, no.

Mr. Meadows. And you have no knowledge of Andy communicating that?

Mr. Baker. Not specifically, no.

Mr. Meadows. So, for all you know, he could have gone ahead with the wiretap?

Mr. Baker. As far -- I have not confirmed one way or the other whether it took place. That's true.

Mr. Jordan. I just want to be clear on that. So, when you were first told by Mr. McCabe that Mr. Rosenstein had made this statement, what was your response? Did you say that to -- "Well, that's crazy," or what did you say?

Mr. Baker. Something -- words to that effect, yes. I thought it was a --

Mr. Jordan. You made very clear right at the front that --

Mr. Baker. To the best of my recollection, sir, yes.

Mr. Jordan. Okay.

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Mr. Baker. I just did not think it was a good idea.

Mr. Jordan. And did you do any followup with the Deputy Attorney General? Did you talk to Mr. Rosenstein and say --

Mr. Baker. I did not talk to him about it, no.

Mr. Jordan. And Mr. Meadows asked, you don't know if Mr. McCabe did or Ms. Page did?

Mr. Baker. I specifically don't know the answer to that, yes.

Mr. Jordan. Okay. Have you ever met with Mr. Mueller?

Mr. Baker. Mr. Mueller, yes.

Mr. Jordan. Did you meet with him between May 9, 2017, and May 17th?

Mr. Baker. May 17 is the day he was appointed?

Mr. Jordan. Yes.

Mr. Baker. No, I did not meet with him during that time.

Mr. Jordan. You didn't talk to him at all?

Mr. Baker. Not to my recollection.

Mr. Jordan. On the phone?

Mr. Baker. No. Not that I recall.

Mr. Jordan. Do you know if Mr. Mueller was in the meeting with Mr. McCabe, Ms. Page, and Mr. Rosenstein when this was said?

Mr. Baker. Not to my knowledge. No one -- I don't recall anybody mentioning his presence there, no.

Mr. Jordan. And do you know if Mr. Mueller was -- my understanding is Mr. Rosenstein was communicating with Mr. Mueller prior to the 17th and may have been with him the day that Mr. Mueller

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interviewed with the President for the job of Director of the FBI. Do you know anything about that?

Mr. Baker. No.

Mr. Jordan. Okay.

Mr. Baker. Not to my -- to the best of my recollection, no.

Mr. Jordan. Okay.

Have you got anything more on this, because I'm --

Mr. Meadows. Yeah. One other. I want to make sure we're clear. The reference to tape the President of the United States came from Rosenstein to McCabe, not from McCabe to Rosenstein. Is that correct?

Mr. Baker. My recollection, it was the Deputy Attorney General who had the idea, or who made the suggestion, at least, and that went to Andy McCabe, and then Andy McCabe told me.

Mr. Meadows. And you don't know who else was in that meeting? They never -- Lisa and Andy, other than the ones you've mentioned, they didn't mention who else was there?

Mr. Baker. It was other -- my recollection is that there were other people in the room from the Deputy Attorney General's Office. I wasn't there and don't specifically recall who it was. I think it was Jim Crowell at least, who I think was the chief of staff at the time to the DAG, but beyond that, I'm not sure who was there. It may have been -- actually, it may have been Scott Schools also from the Department who worked in the DAG's office.

Mr. Meadows. But there were a couple of other people?

Mr. Baker. My recollection is that Andy and Lisa told me that

there were several people in the room from the DAG's staff as well.

Mr. Meadows. Did they mention who would wear the wire?

Mr. Baker. My understanding was the DAG -- the idea was the DAG would wear the wire.

Mr. Meadows. Was there any mention of Bob Mueller wearing the wire?

Mr. Baker. No. Again, I don't remember Mueller's name coming up during this time period at all until immediately -- like, immediately before the Deputy Attorney General briefed Congress on the fact that he was appointing a special counsel and --

Mr. Meadows. Well, the only reason why I ask is, in this particular timeframe, obviously, there was an interview with Mueller going in for an interview for Director, there were multiple conversations with Rod in terms of being the special prosecutor. I mean, a lot happened in a 72-hour period. And what you're saying is you're unaware of any of those personal conversations where Bob Mueller would have been part of that?

Mr. Baker. Not with Mueller. I was aware of the conversations about the special counsel being created and that topic, and not specifically associated with Director Mueller as the person. That, I didn't hear, to the best of my recollection, until after I was up here with the DAG and Andy McCabe on the Hill and the briefing was provided to the leadership.

Mr. Meadows. Okay. And I'm going to refer -- after this last question, I'm going to go back to my good friend from Ohio.

Back to the special prosecutor, we now have evidence that would suggest that a special prosecutor was being discussed prior to the firing of Director Comey. Specifically it's in Bruce Ohr's notes where he was having conversations about a special prosecutor in March of 2017.

Did you have conversations prior to the firing of James Comey about a special prosecutor?

Mr. Baker. To the best of my recollection, that topic came up, but I don't remember a specific conversation sitting here today about it, but I remember it coming up, but not like a meeting or anything of that nature. It was mentioned as a possibility or --

Mr. Meadows. Why was it mentioned as a possibility?

Mr. Baker. I'd have to think about it that. I don't recall, off the top of my head.

Mr. Meadows. I mean, what would be the conflict of you all continuing your investigation?

Mr. Baker. Well, I think it was as the Russia investigation was moving forward and the interactions that the President was having with the Director, Director Comey, and it was sort of on the -- it was on the margins of some type of conversation. I don't even remember who said it, quite honestly, but I'm telling you that the topic did come up before the firing. I just don't have a --

Mr. Meadows. So, before the special prosecutor, we've had other witnesses who have said that, at that point, they could not prove collusion, other FBI officials. Is that your understanding?

Mr. Baker. I'm sorry. I don't understand the question.

Mr. Meadows. Prior to the appointment of the special prosecutor, as late as May of 2017, we've had other witnesses that have suggested that they could not prove collusion between the Trump campaign and the Russians as late as May of 2017. Is that your understanding?

Mr. Baker. I've heard press reports to that effect, or seen press reports to that effect.

Mr. Meadows. Do you have any evidence to the contrary that you observed personally in your official capacity?

Mr. Baker. So the difficulty I'm having with your question is, what does "collusion" mean, and what does "prove" mean? And so I don't know how to respond to that.

Mr. Meadows. I'll yield back.

Mr. Jordan. Okay. You said you had conversations with folks at the FBI about the appointment of a special counsel prior to Mr. Comey's firing.

Mr. Baker. Well, I don't specifically remember who it was. I believe it was people at the FBI, and it was just about a special counsel in general, and it was not a long conversation. It was a mention of a --

Mr. Jordan. Did you talk to Director Comey about this?

Mr. Baker. That's what I can't recall sitting here today. I apologize. It could have been, but I don't specifically remember that.

Mr. Jordan. Could it have been Mr. -- I mean, not could. Did you talk to Andy McCabe about it?

Mr. Baker. I'm hesitant to say who it was specifically because I think it was a passing conversation that could have been with the Director, with the Deputy Director, and some of the other senior leaders.

Mr. Jordan. And this was in what timeframe again?

Mr. Baker. Sometime -- it was sometime after the Russia investigation started, but I don't specifically remember when. I don't remember being part of long conversations about it, quite honestly.

Mr. Jordan. Did you talk to Peter Strzok about it?

Mr. Baker. About a special counsel?

Mr. Jordan. Yep.

Mr. Baker. Not to my recollection.

Mr. Jordan. Lisa Page?

Mr. Baker. I don't think I discussed it with Lisa.

Mr. Jordan. So it was the discussions, then, most likely Mr. Comey and/or Mr. McCabe? Is that fair?

Mr. Baker. Most likely it was people in the FBI leadership, not including Lisa and Pete.

Mr. Jordan. Okay. Then --

Mr. Baker. I can't specifically remember who it was.

Mr. Jordan. Okay. So, then -- so FBI leadership, but not Peter Strzok or Lisa Page. Then Mr. Comey is fired on May 9th. Between May 9th and May 17th, did you have conversations about a special counsel then?

Mr. Baker. Yes.

Mr. Jordan. In that week?

Mr. Baker. Yes.

Mr. Jordan. And who were those with?

Mr. Baker. So I think the people that I was in communication with would have been the people I mentioned before, so it would have been Andy McCabe, I think Carl Gattis (ph) was there, probably Lisa Page, Bill Priestap. I don't specifically remember Pete Strzok being in those conversations.

Mr. Jordan. So these are the same group of people you talked about earlier you were having these conversations discussing a number of items, including Mr. Rosenstein's statement about recording the President and including now the appointment of a special counsel?

Mr. Baker. Yes.

Mr. Jordan. Okay. In your last time here with us, you were asked about, was there anything talked about the 25th Amendment issue? And your response was, "Yes."

So, on that list of things you're talking about, you're talking about Mr. Rosenstein recording the President. You're talking about possible appointment of a special counsel. Again, this is all between May 9th and May 17th. And you're also now talking about the 25th Amendment. Is that accurate?

Mr. Baker. It was -- well, yes. It was -- the topic was brought up.

Mr. Jordan. Okay. So tell me about those conversations. Who

discussed that, and what did you discuss?

Mr. Baker. On the 25th Amendment?

Mr. Jordan. Yes.

Mr. Baker. Yeah. Okay. So, again, my --

Mr. Jordan. Let me ask you one other question. Well, no. Go with that. Go with that.

Mr. Baker. To the best of my recollection, it was the same kind of thing I described with respect to the wire, that I was being told by some combination of Andy McCabe and Lisa Page that, in a conversation with the Deputy Attorney General, he had stated that he -- this was what was related to me -- that he had at least two members of the President's Cabinet who were ready to support, I guess you would call it, an action under the 25th Amendment.

Mr. Jordan. So both Andy McCabe and Lisa Page told you that Mr. Rosenstein had indicated to them that two members of the President's Cabinet were serious about the 25th Amendment approach to removing --

Mr. Baker. I had the impression that the Deputy Attorney General had already discussed this with two members in the President's Cabinet and that they were -- what I understood was that they were onboard with this concept already.

Mr. Jordan. Okay. Do you know which direction that went? Was it Mr. Rosenstein seeking out members of the Cabinet looking to pursue this 25th Amendment approach, or was it the other way around?

Mr. Baker. What I recall being said was that the Deputy Attorney

General had two members of the Cabinet. So he -- how they came to be had, I don't know, but --

Mr. Jordan. So he had two members, almost like he was taking the initiative and getting the members.

Mr. Baker. That would be speculation on my part.

Mr. Jordan. Okay. And do you know who these two members were?

Mr. Baker. I do not. I never heard, no.

Mr. Jordan. Any idea from what -- from the context in what Mr. McCabe and/or Ms. Page related to you after that meeting, any idea?

Mr. Baker. Lisa and Andy did not tell me, and my impression was they didn't know themselves. So I'm not -- it wasn't that they were holding it back, or I didn't have that impression that they were holding it back. My impression was that they didn't know either.

Mr. Jordan. Okay. So the same question I asked you earlier, then, in relation to what you did when you heard about the recording. What did you do in response to you now have the Deputy Attorney General relaying to the top people at the FBI, the Acting Director of the FBI, that there are two members of the United States Government, two Cabinet members who are looking at the 25th Amendment. What did you guys do then?

Mr. Baker. I don't think we did anything. My recollection is this was a matter for the Deputy Attorney General to sort out. This was not an FBI matter. We should stay out of that.

Mr. Jordan. So no subsequent action?

Mr. Baker. I don't believe that we took any subsequent action

on that, to my knowledge.

Mr. Jordan. So, when you were told this -- I mean, I'm just curious. You're told this. You're the chief counsel at the FBI. You're told that the Deputy Attorney General had just told the Acting Director of the FBI that two members in the United States Government, in the Cabinet, were looking to invoke the 25th Amendment. Did you -- was it, like, did your jaw hit your chest, or what was your reaction when you got that information?

Mr. Baker. My personal reaction? I guess I was surprised. I was surprised, but this was at the end of -- you know, for me, this is a stream of activity starting with the Hillary Clinton investigation and everything having to do with that, up until the election, and then everything having to do with the Russia investigation, the Director's conversations with the President, everything else that was going on, and this -- and then the Director being fired. So this was a tumultuous time to say the least. And so it was one, frankly, crazy thing after another, unusual thing after another, and this was --

Mr. Jordan. This one was -- this is a little more -- I mean, I agree there's lots of crazy things going on, but this one is as crazy as it gets.

Mr. Baker. Well, the Director being fired because the President doesn't like the fact that we're investigating Russia was pretty crazy to my mind.

Mr. Jordan. I'm going to come to that. I know Mr. Meadows has a question.

Mr. Meadows. Yes. So --

Mr. Jordan. One second, Mark.

So just so I understand, I'm trying to develop this list of things you were discussing between May 9th and May 17th, and that is the recording of the President, Mr. Rosenstein's statement, that is the 25th Amendment, and that is the appointment of a special counsel. All those things were ongoing items of discussion with the top people at the FBI and, frankly, top people at the Justice Department? Is that fair?

Mr. Baker. Yes. Yes. But most importantly, I think, at the Bureau, we were trying to figure out what investigative steps we needed to take in light of the firing. And I'm --

Mr. Jordan. I want to come -- I'm coming there next.

Mr. Baker. That was sort of -- to me in this time period, that was the thing that the Bureau and the Bureau's --

Mr. Jordan. I understand, and that's where I'm going next, but Mr. Meadows has some other questions.

Mr. Baker. Yes, sir.

Mr. Meadows. So how long did you work in either DOJ or FBI? How many years?

Mr. Baker. I worked at DOJ from 1991 to 2007. Then I left in 2009 to 2011, and then from 2014 to 2018. So 23, 24 years, something like that.

Mr. Meadows. So more than two decades of experience?

Mr. Baker. Yes, sir.

Mr. Meadows. In those more than two decades of experience, have you ever had a Deputy Attorney General or anyone high ranking come to you about invoking the 25th Amendment?

Mr. Baker. No.

Mr. Meadows. Have you had anyone come to you, a Cabinet member, seek you out to get your opinion on the 25th Amendment or have you heard of that?

Mr. Baker. No.

Mr. Meadows. What would be, in your mind, the probability -- well, I won't ask you. I'm a math guy, so I won't ask you that.

Do you find it highly unusual that two Cabinet members independently would reach out to Rod Rosenstein on their own to discuss the 25th Amendment without it being initiated by Mr. Rosenstein?

Mr. Baker. I'm not sure I can answer that question. That's a hard one to answer. I'm not sure I can assign a probability to that.

Mr. Meadows. All right. But in your opinion, you believe, based on your previous testimony, that it was Deputy Attorney General Rod Rosenstein that reached out to them, based on the way it was communicated to you?

Mr. Baker. Let me say it this way: I had the impression that he was an active participant in those discussions, because he said he had two members.

Mr. Meadows. And so, as part of this conversation, I think in your previous testimony the other day, you mentioned that there was

some question about Rod Rosenstein's state of mind at that point. Was that because he was being blamed for Director Comey's firing, or why would you question his state of mind?

Mr. Baker. I think it was that my impression was it was the Deputy Attorney General having a -- yes, a reaction to the events that occurred -- remember, this is shortly after he arrives in office -- and the belief, at least in the public to some degree and among others, that he supported or facilitated or was responsible for in some fashion Director Comey's firing, that he provided the President with some information that allowed the President to rely on that and --

Mr. Meadows. Well, indeed he did write -- I mean, we know that, that he wrote a memo. So what you're saying is, is that his communication to you was that he didn't think that Director Comey should be fired?

Mr. Baker. Say that -- his communication to me?

Mr. Meadows. Right.

Mr. Baker. I don't think he ever communicated to me directly about that.

Mr. Meadows. Okay. So was he denying it, from what you heard from others, that he -- because that's a key point. If he's making a recommendation of the President to terminate and then he comes back and denies it with his colleagues, it would create some angst.

Mr. Baker. My recollection and my impression wasn't that he was denying that he had participated in the firing. My recollection was that he believed that either he made a mistake or was fooled or drawn

into it in some way that he didn't anticipate how it was going to turn out, and that he had extreme regrets about what had happened.

I guess that's the last point. He regretted the facts and circumstances that led to the firing and was very upset about it.

Mr. Meadows. And so that's why he wanted to tape the President of the United States, because he was upset about it and the backlash he was getting?

Mr. Baker. My recollection is that the reason for the taping was to obtain evidence with respect to the President's state of mind with respect to why he fired Director Comey.

Mr. Jordan. So it was all about the obstruction of justice issue?

Mr. Baker. I beg your pardon?

Mr. Jordan. It was all about the obstruction of justice issue?

Mr. [REDACTED] I'm sorry. I'm going to instruct the witness not to respond directly to that question. We are trying to give as much latitude here as we can today.

Mr. Jordan. But, I mean, I can tell Mr. Baker wants to talk about this obstruction of justice issue. I mean, he's been wanting to get in there the whole time -- I mean, the last several minutes.

Mr. [REDACTED] Believe me, Congressman Jordan, we are sitting between members very interested in getting answers to these questions, and my former boss, who I can tell, he's anxious to answer them. At this time, I must instruct him not to answer. As I represented to Congressman Meadows, we will take your question back and seek clarification, and if we may allow him to answer, we --

Mr. Jordan. Can I go for a second, Mark?

So, again, I'm developing this list. You had numerous conversations between the 9th and the 17th on the 25th Amendment issue, on the wiretapping -- or wearing a wire to record the President issue, and on the appointment of a special counsel. Were there any other issues you talked about, big issues, you're talking about what was going on at the FBI now that Mr. Comey had been fired, any other issues that were big in that list of categories I'm making, notwithstanding, of course, what I think is the biggest one and the one I think you want to talk about, which is the obstruction of justice issue?

Mr. Baker. I can't recall any other big issues. I mean, other than trying to run the FBI in this tumultuous time.

Mr. Jordan. Right.

Mr. Baker. Andy's the Acting Director, and we're trying to figure out how to support and help him.

Mr. Jordan. So there's four big things that are going on there then. You've got the special counsel issue, you've got the wearing the wire to record the President, and you've got the 25th Amendment issue, four big things you're talking about.

Mr. Baker. And the investigative actions of the FBI. That's the other thing, right.

Mr. Jordan. Of course your normal work. I get that.

Mr. Baker. Well, but we're -- relative to this. This is the thing --

Mr. Jordan. Relative to this.

Mr. Baker. -- we can't talk about.

Mr. Jordan. All right. Were you upset that James Comey was fired?

Mr. Baker. Was I?

Mr. Jordan. Yes. Personally.

Mr. Baker. I didn't hear the word, though. Sorry.

Mr. Jordan. What was your reaction? Were you upset by the fact the President had fired Mr. Comey?

Mr. Baker. Yes.

Mr. Jordan. And is it fair to say Lisa Page was upset about that and Andy McCabe was upset about that?

Mr. Baker. Yes. I think everybody was upset about it, yeah.

Mr. Jordan. And now what you just related to Mr. Meadows, it sounds like Mr. Rosenstein was upset about it, even though he wrote the memo recommending it?

Mr. Baker. I think he was upset about it too, yeah. But I think one of the things that I urged everybody, having been through many crises in the past, was to immediately retain our laser focus on what needed to be done, because that's what the American people were counting on us to do, and just keep focused on what the Bureau needed to do, not lose sight of that, not be distracted by all these other things, and move forward professionally and quickly to deal with whatever it is we needed to deal with.

Mr. Jordan. Go ahead.

Mr. Meadows. So let me follow up on that, because what it sounds

like is that the conversation about taping the President was retaliatory. It sounded like, "Well, gosh, we couldn't get him this way, so let's find another means of proving our case," and one of those was taping, the other would be a special prosecutor, but --

Mr. Baker. I would disagree that it was retaliatory. It was an effort to obtain information. In my mind, that --

Mr. Meadows. Well, you said you never spoke to the DAG, so how would you know that it's not retaliatory?

Mr. Baker. I don't know. You'd have to ask him. That's a fair point. That's a fair point. But that was not how I thought about it on our side.

Mr. Meadows. So how did you think about it?

Mr. Baker. That this was a suggestion with respect to an investigative step that could be taken to obtain further information on whether the President had obstructed the FBI's investigation of Russia.

Mr. Meadows. All right. So here's what it's boiling down to, it sounds like to me, and I think with a little bit of latitude from your counsel at the FBI, we might be able to get to this. It sounds like that, at that particular time, once Director Comey was fired, the shifting of the investigation shifted from a Russia collusion investigation to an obstruction investigation. And that's really what it sounds -- I mean, in the context of where you are, it sounded like it shifted in May of 2017 from collusion to obstruction. Is that correct?

Mr. [REDACTED] At this time, I will have to instruct the witness not to respond directly to that question. And I know what request is coming, and I assure you we will follow up on that.

Mr. Jordan. Was there any talk -- and maybe you'll give me the same answer, Counsel, but was there any talk of an obstruction of justice investigation prior to the firing of Mr. Comey?

Mr. Baker. Yes. Well, obstruction of the FBI's investigation.

Mr. Jordan. When did that start?

Mr. [REDACTED] Again, I'm going to have to instruct the witness not to answer that.

Mr. Jordan. So I'm going to -- I want you to look at this.

Can we make a copy of this for Mr. Baker?

I want you to look at this text message from May 9th. This is a text message from Mr. Strzok to Ms. Page.

Can you make a copy of that? Do you have it? Okay. Can you give Mr. Baker a copy? And the minority's going to want one too, I'm sure.

It's the one that says: And we need to open the case we've been waiting on now while Andy is acting.

Mr. Baker. Sir, what page are you on?

Mr. Jordan. Whatever they just handed it.

Mr. Baker. Page 32? Oh, it's all 32. Okay.

Mr. Jordan. Thirty-two. It's about two-thirds of the way down the page.

Mr. Baker. Okay. I see that. Yes.

Mr. Jordan. What are they talking about?

Mr. Baker. Well, A, I'm not really sure, so I can speculate, but I can speculate that I believe they are talking -- well, okay.

Mr. [REDACTED] Before the witness speculates, may we consult with the witness?

Mr. Jordan. Yep.

Mr. [REDACTED] Thank you.

[Discussion off the record.]

Mr. [REDACTED] Can we have the question read back or re-asked again, please?

Mr. Jordan. So Mr. Baker had said -- I asked him what this text message refers to. I think he said he's speculating that it refers to something, and then you -- that you needed to have a little sidebar.

Mr. [REDACTED] So I'm going to instruct the witness he may answer if he knows what the text refers to, but I'm going to instruct him not to discuss any speculation of any investigation that it may refer to. So, first of all, if the witness would answer whether he knows what it refers to, I think that may help us.

Mr. Baker. I don't know specifically what they were talking about.

Mr. [REDACTED] And if the question is for him to speculate as to what it may pertain to, I would instruct him not to discuss any potential or ongoing investigation.

Mr. Jordan. So just again to set the context here, this is literally, it looks like, could be minutes, could be hours after Mr. Comey has been fired, it's the same date, May 5th, 2017: We need

to open the case we've been waiting on now while Andy is acting.

Just a few minutes ago, I asked you were you discussing obstruction of justice prior to the firing of Mr. Comey, and you said yes.

Now, on May 17 -- or excuse me, May 9 of 2017, Mr. Comey gets fired, and we have a text message from Peter Strzok to Lisa Page saying: We've got to open the case now while Andy is Acting.

It sure looks like they're talking about an obstruction of justice investigation. Would you agree with all that?

Mr. [REDACTED] Again, we would instruct the witness not to discuss any ongoing investigation.

Mr. Jordan. I'm not going to discuss it. I'm just asking whether you agree with the assessment I just laid out. It looks pretty obvious to me, but I'd like the former chief counsel of the FBI's opinion.

Mr. [REDACTED] If you know.

Mr. Baker. I don't know what -- I can guess, but I don't know.

Mr. [REDACTED] So, again, we want to be helpful here. It sounds, if I'm understanding you correctly, Congressman, that you're asking him if he agrees that a certain inference could be drawn.

Mr. Jordan. Yep. Exactly what I'm asking.

Mr. [REDACTED] All right. You may respond.

Mr. Baker. Okay. I'm slightly confused, but I think it looks as though they are talking about opening an obstruction investigation. That's what I interpret from this.

Mr. Jordan. An obstruction investigation based on the fact the President fired Mr. Comey?

Mr. Baker. In addition to other things.

Mr. Jordan. Okay. And can you talk about those other things?

Mr. Baker. I think that's what we just said. I can't talk about it.

Mr. [REDACTED] We will have to instruct the witness not to respond at this point.

Mr. Jordan. The gentleman from Texas wants some time.

Mr. Ratcliffe. For the record, I'm John Ratcliffe. I represent the Fourth District of Texas, Mr. Baker. Thank you for being here today. I'm sorry I was a few minutes late.

You've been instructing the witness not to answer certain questions as it relates around obstruction, just so I'm clear on the admonition that you've given him for today.

Mr. [REDACTED] Are you asking me, Congressman?

Mr. Ratcliffe. Yes.

Mr. [REDACTED] It's difficult to respond in the abstract, but as questions arise that we have concerns could impact any ongoing investigation, particularly with reference to the special counsel's equities, we are doing our best to permit the witness to answer, but there are some questions where we either know his testimony could adversely affect the investigation or where we feel we'll need to get additional clarification before we can allow him to respond, but we are certainly doing our best to be as accommodating as we can today.

Mr. Ratcliffe. Okay. The reason I ask, I want to probe a little bit with you, Mr. Baker, the legal basis behind some of the things the FBI was doing as it relates to potential obstruction, because I heard you say earlier, I think I wrote this down correctly, in response to Congressman Jordan's question about the 25th Amendment and the assertion, and you said that against a President is a crazy thing or that there's nothing more crazy than that; you said: Well, a Director being fired because the President doesn't like us investigating Russia is pretty crazy.

Do you recall saying that?

Mr. Baker. Words to that effect, yes.

Mr. Ratcliffe. Okay. Or words to that effect.

Okay. And so you very clearly have said that you didn't like that, but I'm trying to find out what basis you think that that was somehow inappropriate or improper, much less illegal? And so the Russia investigation was opened as a counterintelligence investigation, correct?

Mr. Baker. Yes.

Mr. Ratcliffe. Okay. So, in fact, I'll just tell you, on March 20 of 2017, Jim Comey said that the FBI was conducting the investigation into Russia as part of our counterintelligence mission, end quote.

Do you agree with that?

Mr. Baker. Yes.

Mr. Ratcliffe. And you were his general counsel at that time,

correct?

Mr. Baker. Yes.

Mr. Ratcliffe. We know at some point in time that elements of the counterintelligence investigation into Russia's actions gave rise to criminal investigation, because of the appointment of Special Counsel Robert Mueller, correct?

Mr. Baker. I'm not sure I understand the premise of your question.

Mr. Ratcliffe. Well, what I'm trying to find out, Mr. Baker, is at what point in time, as the FBI general counsel, can you tell us that this counterintelligence probe became a criminal investigation?

Mr. Baker. From its inception.

Mr. Ratcliffe. Explain that to me.

Mr. Baker. That as a general -- so when the FBI -- the FBI has numerous authorities and numerous responsibilities, and whenever it investigates anything, especially in the national security area, it brings to bear with respect to that issue or that investigation all of its authorities.

So, when we confront a problem, yes, we're looking at it from a counterintelligence or intelligence perspective using our intelligence authorities, but to the extent that that same activity at the exact same time also involves criminal activity, we're investigating that as well. And so this is one of the fundamental changes that occurred post-9/11 with the bringing down of the wall, that this line that people try to draw between intelligence or

terrorism, counterterrorism, counterintelligence and criminal is really illusory. It doesn't really exist, and the FBI has all of its authorities all the time and can look at something from -- look at a set of the facts from a counterintelligence perspective trying to understand what the foreign adversary is doing, their tradecraft is, things along those lines, and whether a crime was committed and be looking at it simultaneously from both of those perspectives. So they occur at the same time; they're part and parcel of each other. They're not easily separated.

That's the hard part, I think, about this, and I think unfortunately has led to the -- the fact that this is how it's done and a, you know, especially in the media, lack of understanding about that leads to confusion, unfortunately.

Mr. Ratcliffe. Okay. So let me drill down on that a little bit further. The purpose of a counterintelligence probe and the reason that it's not defined as a legal proceeding in the U.S. attorney's manual and under the penal code is because it's specifically for the purpose of advising the President as to foreign threats, correct?

Mr. Baker. Well, so you're -- so the purpose of a counterintelligence investigation is to thwart the activities of an adversary, to identify, understand and thwart, disrupt, defeat, whatever words you want to use, the activities of the adversary. To the extent that that produces intelligence information, then, yes, that should be reported to appropriate officials within the U.S. Government and our foreign partners, including the President of the United States

if it warrants his attention, but at the same time, you're also -- the FBI is also, because it's the FBI, not the Justice Department prosecutors, the FBI is investigating to assess whether or not any crimes were committed.

In a typical counterintelligence case, you would be looking at espionage, for example, let's say, which is a crime, obviously, and so you're investigating that from the get-go and you're also trying to figure out, you know, let's say the Russians, what were the Russians doing, how were they doing it, what Russian diplomats might have been involved in this kind of a thing, intelligence officers, that thing. You're trying to understand the full nature and scope of everything that happened, including whether there were any crimes committed, including whether there were any Americans who were involved in these offenses.

Mr. Ratcliffe. So, with that explanation, would you agree with me that the President, as the head of the executive branch, has the ability to end a counterintelligence probe at any point in time; lawfully, lawfully end a counterintelligence probe at any point in time?

Mr. Baker. Does he have the constitutional authority to do so?

Mr. Ratcliffe. Yes.

Mr. Baker. This is a difficult question to answer. If you look narrowly, I think, at Article II, your answer would be yes. I think if you look more broadly at all of his responsibilities under the Constitution, including his oath of office, I think it's less clear,

especially when the investigation may pertain to him or people associated with him.

Mr. Ratcliffe. And did you have that discussion at the FBI during the timeframe that we're talking about here about whether it was proper for the FBI to be engaged in these types of obstruction conversations?

Mr. [REDACTED] I believe the witness, I think, wants to answer, but I'm going to instruct him not to answer at this time.

Mr. Meadows. Let the record reflect that Mr. Baker nodded twice in the affirmative.

Mr. Baker. Well, I nodded in the affirmative because I am prepared to answer the question and ready to answer the question, but I will not.

Mr. Meadows. So I want to make sure --

Mr. Baker. It was not a substantive nod. It was a nod of willingness to respond to the question.

Mr. Meadows. Well, I've made lots of money reading people. And so what you're saying is that at no time did you agree with Mr. Ratcliffe's statement, that that nod was not affirmative? I want to make sure. Listen, you've been an honest broker with me to date, and I'm just telling -- don't equivocate.

Mr. Baker. So, sir, to be honest, I'm not sure I can remember exactly now, with the back and forth, what his question is. If he wants to ask it again, I'd be happy to try to deal with it.

Mr. Meadows. He's not going to let you answer.

Mr. Baker. Okay.

Mr. Ratcliffe. Well, and I'm not trying to -- what I'm really trying to do here, Mr. Baker, is to understand. I get the fact that, as you've testified, you were upset and Ms. Page was upset and Mr. McCabe was upset about Jim Comey being fired and that you didn't like it and that you thought it was crazy and that you didn't think it was a good idea, but that's all different than indicating that there was something unlawful about that. And you've just told me that you think that the President constitutionally has the authority to end a counterintelligence investigation at any point in time.

Does a President have the ability to, as the chief executive, end a criminal investigation at any point in time?

Mr. Baker. Can I answer this question? Yeah.

Does the President have the authority to end a criminal investigation at any point in time? I would answer in this way: Yes, insofar as his doing so, either with respect to a criminal investigation or an intelligence investigation, is not otherwise in contravention of his other responsibilities under the Constitution.

Mr. Ratcliffe. And how would those other responsibilities come into play in this situation?

Mr. [REDACTED] Again, it's that last part of "in this situation" that, at this point, we must instruct the witness not to respond.

Mr. Breitenbach. Without getting into any of the substance as to the answer to Mr. Ratcliffe's question, are you aware whether there was any legal analysis performed by either the FBI or the Department of Justice into whether the FBI could engage in particular

investigations subsequent to the firing of Director Comey?

Mr. Baker. Yes.

Mr. Breitenbach. And were these written legal memos that were addressing whether this was an action that could be taken?

Mr. Baker. I don't recall a written legal memo. I would say that there were conversations and perhaps some emails, that type of thing; not like a formal memo or anything like that that I recall.

Mr. Ratcliffe. So, again, let me -- I'm trying to understand, since you were the general counsel lawyer for the FBI Director at the time, to understand here about how anything could be improper or how the President could have possibly been obstructing justice at any point in time.

I'll just say for the record, I'm not one of those folks that say that a President cannot obstruct justice. I think that there are times if performing illegal acts aimed at corruptly influencing legal proceedings, for instance, suborning perjury or bribing witnesses, those types of things, but would you agree with me as the FBI general counsel that a President cannot commit obstruction by performing lawful acts to which he is authorized under the Constitution?

Mr. Baker. If those acts are in fact lawful with respect to all of his duties and responsibilities under the Constitution, I would say yes.

Mr. Ratcliffe. Okay. Well, let's talk about what lawful actions may encompass. A President has the lawful authority to dismiss executive officers, including FBI Directors, correct?

Mr. Baker. Well, so, yes. We could go down a list of things that the President can do, but at the end of the day, if the President's purpose is in contravention of his other duties under the Constitution, in my view, he cannot do those things.

Mr. Ratcliffe. Yeah. And so I guess we need to get to that in terms of the things that when you talk about his other duties and how those would come into play here, I think it's important that we try and understand that, but -- so you agree that generally a President has -- it is a lawful action to dismiss executive officers, correct?

Mr. Baker. Well, again, so is the President executing his responsibilities in connection with his oath of office to preserve, protect, and defend the Constitution in connection with that particular action? If it's not, then I say no. If he's not -- the President has a solemn obligation under the Constitution to take care that the laws are faithfully executed, all of the laws simultaneously. It's a hard job to do that and to reconcile how that actually has to be done, but if he is somehow in this particular action not doing that, then I would say no, that is not a constitutionally authorized activity.

[10:59 a.m.]

Mr. Ratcliffe. So it's your opinion that the termination of an FBI Director can be a violation of lawfully and faithfully executing the laws and the Constitution of the United States?

Mr. Baker. Yes.

Mr. Ratcliffe. Okay. So do you -- back to the question I had before. We can talk about whether or not a President shouldn't interfere in pending criminal investigations. What is your opinion about whether or not -- whether or not -- regardless of whether one shouldn't or historically doesn't, whether or not a President can?

Mr. Baker. Interfere in a criminal investigation?

Mr. Ratcliffe. Yes.

Mr. Baker. Again, in theory, the President can. But if it's for a purpose that is contrary to his other responsibilities on the Constitution, then he can't.

Mr. Ratcliffe. Okay. So, again, I'm going to --

Mr. Baker. A narrow reading of Article II would lead you to conclude that he could do that because the -- all the executive branch is under his command. But if he is doing that for some purpose that is not appropriate, I'll use that word, not lawful, then I don't believe he can. I don't believe he has that authority.

Mr. Ratcliffe. Okay.

Mr. Meadows. So, Mr. Baker, prior to the firing of Director Comey, you instructed Peter Strzok and Lisa Page to open up an investigation. What investigation was that?

Mr. [REDACTED] May we confer quickly with the witness?

[Discussion off the record.]

Mr. [REDACTED] If we may, can we have the question read back or re-asked, just because I believe the wording of it as it was asked may be significant into whether he can answer or not.

Mr. Meadows. Prior to the firing of Director Comey, you instructed some members at the FBI -- it was communicated between Lisa Page and Peter Strzok, but they were referring to you -- that you instructed them to open an investigation, and I said what investigation is that.

Mr. Baker. So the --

Mr. Meadows. In April of 2000 --

Mr. Baker. April?

Mr. Meadows. Well, the text message was April 26, 2017, where it's going back and forth. And I can give you a copy of this. It says: Why -- we need to know why you didn't open the case when you were directed by the -- you, the GC.

Can you give him a copy of that?

Well, here you can have mine, the highlighted one.

Mr. Baker. I'll read it and hand it back.

April 26th.

Mr. Meadows. And we'll get the minority a copy as well.

Mr. Baker. Yeah. That -- that one, given the timeframe, I'm not sure what they're talking about, quite honestly.

Mr. Meadows. So you didn't instruct anyone to open an

investigation prior to the firing of Director Comey? Because obviously you -- something came to mind because that's why you conferred with counsel.

Mr. Baker. Something later came to mind. I don't -- I don't believe that I did instruct anybody to open an investigation, not to the best of my recollection sitting here today.

Mr. Meadows. Well, there will be enough of an audit trail where we'll be able to figure it out.

So are we quibbling over a couple of days or -- I mean --

Mr. Baker. This is -- this is before the firing, right?

Mr. Meadows. That's correct.

Well, I mean, according to the date stamp, it would be, yes.

Mr. Baker. So, A -- I guess I would respond, A, I don't believe I instructed anybody to open the investigation. B, I wouldn't have the authority to tell the Counterintelligence Division they must open an investigation. That's --

Mr. Meadows. But it's not referring to that. It's just saying that they had your approval.

So what case were you talking about opening that obviously had you cc'ing the DD --

Mr. Baker. So, again --

Mr. Meadows. -- the Deputy Director?

Mr. Baker. -- the April 26th thing, I don't remember. I'd be interested --

Mr. Meadows. Let's take away the date. What case would you have

copied the Deputy Director on opening?

Mr. [REDACTED] At this point, we'll have to instruct the witness not to respond to the question.

Mr. Meadows. But, Counselor, this is critically important. If we're talking about obstruction before the firing of Director Comey, then it fundamentally undermines many of the arguments that are being made.

Mr. [REDACTED] Congressman --

Mr. Meadows. And so the date is critical.

So here's what I need you to do.

Mr. Somers. Are you going to answer the question before you object to it?

Mr. Baker. Which question are you talking about?

Mr. Somers. Which case?

Mr. Baker. What's throwing me off is the date. So I don't know what -- I'm having a hard time figuring out what they're talking about given that date.

If I had emails, they would be helpful to me, perhaps, you know, my own emails. If I had cc'd the Deputy Director on something, that would be helpful to me to figure out. And I'd be happy to answer the question once I was able to ascertain what the heck they're talking about.

Mr. Meadows. So is it your testimony that you have no knowledge of discussing or directing anyone to open up an investigation prior to the firing of Director Comey?

Mr. Baker. I -- I don't recall that specifically sitting here today. I'm not saying that in the course of my 4 years at the FBI I didn't suggest or tell --

Mr. Meadows. Obviously we're not talking about the course of 4 years. We're talking about specifically as it relates to Mr. Trump and to this -- this initiative in terms of either obstruction or other related matters.

It appears that you were talking about it prior to the firing of Director Comey.

Mr. [REDACTED] So, again, I'm going to have to instruct you not to respond to that question or premise. Will you abide by the instruction?

Mr. Baker. Yes, I will not answer that.

I will say that, as a matter of public record, the Director, former Director, has already talked about the fact that, even before he was fired, that I had thought that the President of the United States was a subject of the investigation that we were already conducting before then for a variety of different reasons.

Mr. Meadows. Yeah, but that investigation started over a year prior to this --

Mr. Baker. Yes, I --

Mr. Meadows. -- the one that you're referring to.
We're out of time.

Mr. Jordan. Let me --

Mr. Meadows. I tell you what. We'll get you copies of this.

And then hopefully in the next hour we can have some of your emails as well delivered, refresh your memory.

Mr. Baker. You're more of an optimistic on that than me, but okay.

Mr. Jordan. And maybe you can't answer this, maybe you've said this already, but I keep coming back to this. Why are -- why are or on what basis were you discussing obstruction of justice prior to the firing of the Director?

Mr. [REDACTED] Again, we'll have to instruct the witness not to respond to a question that specific that pertains to special counsel ongoing investigative efforts.

Mr. Jordan. But it doesn't -- I mean, this is -- the special counsel was named after the firing of Mr. Comey. That was the catalyst for the naming of the special counsel. Why would you be talking about obstruction of justice prior to the firing of Director Comey?

Mr. [REDACTED] Again, same instruction to the witness on this question.

Mr. Jordan. Okay. Thank you.

[Recess.]

[11:24 a.m.]

[Baker Exhibit No. 2

Was marked for identification.]

Ms. Sachsman Grooms. It's 11:25. We'll go back on the record.

BY MS. SACHSMAN GROOMS:

Q Mr. Baker, I just wanted to start by going over a couple things that went through on the previous round. And one thing that got raised following your last time before us, I've entered as exhibit 2, a FOX News story.

The headline of the FOX News story is "Top FBI lawyer Baker offers explosive testimony on, quote, abnormal, unquote, handling of Russia probe into Trump campaign, colon, lawmakers."

And Mr. Meadows is quoted in here saying, and I quote, "Some of the things that were shared were explosive in nature," speaking of your previous testimony from the last time. Quoting again, "This witness confirmed that things were done in an abnormal fashion. That's extremely troubling," end quote.

And then there's a description that says, and I'm quoting from the article now, not Mr. Meadows: Meadows claimed the abnormal handling of the probe into alleged coordination between Russian officials and the Trump Presidential campaign was a reflection of inherent bias that seems to be evident in certain circles. The FBI agent who opened the Russia case, Peter Strzok, FBI lawyer Lisa Page, and others sent politically charged texts and have since left the Bureau, end quote.

So following when that occurred, I pulled your transcript from the last time you were here on October 3rd. And I'm just going to assert for the record that you never used the word "abnormal," but you did respond to this question on page 102. Mr. Meadows said: So is that why you took the abnormal or unusual step in this particular situation was because it was sensitive? And you answered yes.

I just wanted to give you a chance to explain whether you felt that the receipt of the information from Mr. Sussmann or anything else that occurred in the -- in the case that you were involved in you considered to be abnormal.

A It was unusual for me to be the recipient of information directly from the public or a lawyer or anyone else about an allegation of a crime. However, the FBI accepts information and encourages the public to provide the FBI with information as much as possible. And so there are numerous structures built within the FBI, 800 tip lines, online abilities to do this, you can phone the field office or other parts of the FBI. The FBI has a variety of, especially in the terrorism area, mechanisms built into place to make sure that we receive and act on and handle appropriately all kinds of tips and other offers of information to us.

And so to the extent that I was receiving information -- and I amplified that earlier today, I don't know if you were in the room with respect to this information that Mr. Klayman brought to me, so I remembered another incident when this happened. I wasn't in the business day to day of receiving information from the public or evidence

from the public about ongoing crimes or national security issues. But the FBI, of which I was a part, does that all the time, indeed it's part of the bread and butter of our business.

Q Did you think there was anything improper about you receiving the information yourself?

A At that time, no, I did not think it was anything improper. I was aware of the fact that I was taking in evidence and wanted to quickly get it to agents as fast as I could. But I didn't -- it did not strike me as unethical, improper, illegal, contrary to FBI policy, or anything like that.

Q And you said "at that time." Do you still hold that belief?

A Yes.

Q And you just mentioned that also, while it was not a usual practice for you to do, that you recalled in between the interview last time and today that you had done -- you had received information in a similar fashion at least one other time. Is that right?

A Yes.

Q So in addition to --

A Well, it's a total of two other times. So Klayman, Sussmann, and Corn, as I explained last time.

Q And the information that you received from Mr. Sussmann was unrelated to the dossier, right?

A To the best of my knowledge, it was unrelated to the dossier.

Q I think there's been an implication that the information you received from Mr. Sussmann was then folded into the Carter Page FISA.

Can you speak to that?

A I have no knowledge of that being the case. I believed them to be separate reporting. At the end of the day, it had to do with the same foreign power at issue, but the cases were separate. I didn't understand what Mr. Sussmann to have given us, the FBI, to have anything to do with the Carter Page FISA or the dossier or anything along those lines.

Mr. [REDACTED] Let me just give the witness one general instruction so we don't interject a lot as you go.

Mr. Baker, to the extent you're asked questions today about the Carter Page FISA or any other FISA process, please confine your answers to matters you know to be declassified. And if you're uncertain, just please ask to consult with FBI counsel.

Thank you.

Mr. Baker. Sure.

BY MS. SACHSMAN GROOMS:

Q So similar to that discussion the last time, I just want to go through a couple words that were raised in the first hour as part of a question that you didn't address specifically in your answer to make sure that we can clarify your meaning on that and essentially that you weren't adopting the words in the question, because I think that's been at odds a little in the past.

During the first round, you were asked questions about Mr. McCabe and whether Mr. McCabe thought that the information about wearing a wire was serious. Did Mr. McCabe ever explicitly tell you that he

thought that the conversation was a serious conversation?

A I don't think he literally said those words. That was my impression. I -- I tried to convey that earlier today, perhaps I didn't do a good job of it. But that's -- yeah, that was my impression based on the words he said, his demeanor, and so on.

Q Also in the previous round you were asked a question that in my notes reads as, for all you know, he, meaning the DAG, could have gone through with a wiretap. Was there ever any discussion of a wiretap?

A Of a wiretap? No, not to my -- not to my recollection.

Q So the discussion was wearing a wire?

A Wearing a wire, yes.

Q Sometimes the words are switched?

A The activity -- and that activity falls within the scope of the Wiretap Act, so I may not have been precise on that.

Q Again, I'm not talking quite so much about your answers as about the questions.

A I see.

Q That -- sort of implicit words that were stuck into question.

If the DAG had decided to move forward with wearing a wire, wouldn't the FBI have been aware of that and that you would have -- someone from the FBI would have been involved in that process?

A I'm speculating, but most likely yes. Somebody would have had to have provided the DAG with the technical capability to do that. Other Federal investigative agencies have that capability, ATF,

Marshals, DEA, people like that. But in these circumstances, I would have expected that it would have been something that would have gone through the FBI.

Q So would you have expected, in this instance, if the DAG had decided to move forward with that process, someone would have known about that at the FBI?

A I'm almost completely confident that Andy McCabe would have told me about this had it gone forward.

Q And as far as you know, it did not go forward, right?

A As far as I know. Yes. Yes, it did not go forward.

Q In the previous round, you were asked a question about -- about the time period before the special counsel was appointed. And you were told that other witnesses had told us they could not prove collusion at that time, which was May 2017, and asked if you agreed.

What was your view of the case at that time?

Mr. [REDACTED] Could you clarify the question, what you mean when you refer to the case?

Ms. Sachsman Grooms. Sorry. So the question -- the essential question was whether you could prove collusion between the Trump campaign and Russia in May of 2017. And I believe your response was the difficulty was you -- you didn't know what he meant by prove or collusion, so you didn't know how to respond. And I just wanted to open up the question so that you could explain in your own words.

Mr. [REDACTED] If you can respond to the question without

discussing an ongoing criminal investigation into any individual or enterprise, please answer. If not, then I'd instruct you not to respond further.

Mr. Baker. So I guess I would say that the investigative activity that we were engaged in at this time with respect to which we're having this conversation today, I believed at the time, and still believe today, was a lawfully authorized investigation by the FBI consistent with the Constitution and laws of the United States, including Attorney General guidelines. So I believe that what we were doing was an investigation to determine what the facts were.

There was evidence -- I'm not going to go into the details of it -- which that evidence, information, the types of things that are recognized as authorizing and being the foundation for an FBI investigation, we had that type of, I'll call it stuff. And so, therefore, I thought that what we were doing was a legitimate investigation that was progressing as other investigations of this sort would in the sense that it's difficult to conduct counterintelligence investigations. They're hard things to do. It's hard to actually ascertain what happened. It's hard to get into people's heads and understand what they're thinking, those types of things. So my assessment was it was a lawfully authorized and predicated investigation.

BY MS. SACHSMAN GROOMS:

Q Had the investigation concluded?

A No.

Q Had you obtained sufficient evidence within the investigation to indict someone?

A Whether we had or had not, so I won't comment on that, I guess. I would say that we had not discussed or sought an indictment at that point in time.

Q In the previous round you were asked a question, which really was a statement, that said that you had questioned the deputy attorney general's state of mind.

I just want to be clear on this one. Do you have any actual concerns about the deputy attorney general's state of mind?

A Currently or at that time?

Q Currently or at that time. And I mean, you know, the kinds of concerns that one would have about someone's state of mind, the way that that language is often used, which is that they would have trouble working through normal daily activities or judgments or that they would maybe need to go into a hospital or something to that extent. Mental issues.

A I -- I don't -- so my understanding was that it didn't reach the level of requiring hospitalization or an intervention in that sense. My understanding was that the Deputy Attorney General was upset for a variety of reasons. I'll use that word, but that -- and that some of the suggestions he was making, again, I -- I don't know what is in his head or what was in his head, and I'm not commenting on that at all. All I'm saying is what I thought based on what I was being told.

So, anyway, I'll just say that the deputy attorney general's assertions in public directly and through the department could be true and yet at the same time what I'm saying could be true, because we were just -- we didn't talk directly about these things.

He seemed, based on the information I had, upset. And I think he was -- he was in a difficult position having to make hard decisions under incredible pressure. And so I'm not sure what else to say about that.

Q Sure. You also described yourself as upset. Is that accurate?

A Well, upset, yes, in that -- I mean, not -- I don't want to create a misimpression. Not like falling down on the floor and crying and that kind of thing. I think it was upsetting on a personal level because of my close working relationship and personal relationship with the Director and the team around him, but that I also immediately was very focused on what we needed to do to keep the organization moving forward and address all the matters that had to be addressed. We had to make legal decisions that evening with respect to a number of different matters having to do with the Director coming back on the FBI plane, that kind of thing. And so we just got back to business.

And so, yeah, that -- I just knew that is what we had to do, having been through crises before in the past.

Q I think in the previous round some of our Republican members were concerned that your emotional state or your preference for Mr. Comey might have caused you to want to retaliate against the

President. Do you feel that that's accurate?

A No.

Q Did you consider -- well, how about for the DAG? Did the DAG's emotional state cause him to want to retaliate against the President, as far as you know?

A Not -- not as far as I know, no.

Q And to the extent that you were upset about the firing of Director Comey, was part of that based on substantive concerns that you had about the firing?

A I was upset because my friend had been fired in a very public way. So -- but I had -- so that's, I guess, what it was. It was on that personal level. On a work-related level, we had to execute our responsibilities, because we had all taken an oath to the Constitution, and we had to do what we needed to do, and we had to get back to our jobs immediately.

And so, yeah, having been -- you know, just -- a comment I'll make is having been through 9/11, right, which was a very challenging thing to go through and to have to be in a position of responsibility on that day and have to get my workforce to go back to work immediately to deal with the counterterrorism matters we had to deal with, I know what is required to stay focused on the task at hand, even in challenging and difficult circumstances. And the Bureau is comprised of professional people who are able to do that, even in difficult circumstances.

Q So then putting aside the fact that you were upset about your

friend being fired, did you also have serious concerns about the circumstances of the firing?

A From a legal perspective and from a national security perspective, yes.

Q What were those concerns?

A Well, this is where I'm a little -- I'm concerned about --

Mr. [REDACTED] If I may, as I understand the question, it did not ask you to comment on any investigative steps or measures. I believe the question was just asking you about your views of the appropriateness. I would instruct you not to relate your answers to any ongoing investigative interests, but you may comment on simply if you had views about whether the firing was appropriate or not. If you need to consult, then we would ask that we get a chance to consult with you if you feel you're unable to respond.

Mr. Baker. I guess I was -- I was gravely concerned about the firing with respect to the implications for the country.

Ms. Sachsman Grooms. What implications for the country?

Mr. Baker. Can I just go talk to --

Ms. Sachsman Grooms. Sure. Of course.

[Discussion off the record.]

Mr. [REDACTED] Thank you for that opportunity.

We will allow the witness to answer the question. But just so the record is clear, because we don't want any misunderstanding of his testimony, the FBI is instructing him to give a very general, nonspecific response to this question. But he may do that.

Mr. Baker. So I was very concerned about the implications of the -- of the firing with respect to the Russia investigation.

Ms. Sachsman Grooms. The last time you were here, you stated that there was, quote, a concern at the FBI that the President had fired Director Comey because he was trying to obstruct the investigation into the Russia matter and that this concern was shared by others, including the Acting Director, the heads of the national security apparatus, the national security folks within the FBI, and leadership at the Department of Justice. Is that right?

Mr. Baker. I don't remember off the top of my head what I testified about last time. I'm sorry.

Ms. Sachsman Grooms. No, that's fine. My question is was there a concern at the FBI that the President had fired Director Comey because he was trying to obstruct the investigation into the Russia matter?

Mr. [REDACTED] Could you rephrase the question?

It won't surprise you, the word "obstruct" has legal significance, particularly when there are ongoing investigations.

Ms. Sachsman Grooms. He's already answered this question.

Are we -- are we working off of different guidelines than last time?

Mr. [REDACTED] No, we are not. As you can imagine, these are very difficult matters for us to navigate. I would ask that you rephrase the question. But if the witness has already responded to it, then, of course, he can reconfirm his prior answer.

Mr. Baker. I don't remember what I said last time. But I was

doing my best to try to answer truthfully last time, so I would rely on whatever the transcript says, I guess.

Ms. Sachsman Grooms. Okay. Did you have concerns that the President's firing of Director Comey was done in order to prevent, stop, or inhibit the Russia investigation?

Mr. Baker. So I've been instructed that I can answer that question, and the answer is yes.

Ms. Sachsman Grooms. And why did you have that concern?

Mr. [REDACTED] Again, if you can respond without discussing in detail any ongoing investigation of any individual or enterprise, please go ahead. I believe the question was referring to your mind state at the time, and I believe that's appropriate for you to respond to.

Mr. Baker. Okay. So can you just ask the question again --

Ms. Sachsman Grooms. Sure.

Mr. Baker. -- just so I answer it properly?

BY MS. SACHSMAN GROOMS:

Q So you said that you had a concern that the President's firing of Director Comey was done in order to impede or interfere with, something like that, the investigation into the Russia matter. Is that right?

A I'm relying on whatever I said last time in the transcript, yeah.

Q Yes. And I asked why you had that concern.

A In trying to answer that question within the parameters of

what the FBI has said that I can do, I would say that it was the facts and circumstances directly surrounding the firing, but then also the buildup to it and the interactions, activities that had taken place prior to that, that I don't feel I can go into any more detail here given what the FBI's instruction to me is.

Q Were the facts and circumstances that you're referring to the ones that Director Comey testified to in front of the Senate?

A They would include those, yes.

Q Were there ones in addition to that?

A I think so, yes.

Q Can you tell me what those are?

Mr. [REDACTED] Again, I would ask the witness to abide by the previous instructions that he's received and invite him to consult with the FBI if he needs to.

Mr. Baker. Well, I guess I would -- in trying to answer it at a high level, it was the other discussions that I had with people at the FBI as well as my own analysis of the facts and concerns that I had.

Ms. Sachsman Grooms. Can you give me any more detail into your analysis of the facts and concerns that you had?

Mr. Baker. I don't -- I'm not sure that I --

Mr. [REDACTED] I believe that we've let the witness go as far as we can on this line of questioning.

Ms. Sachsman Grooms. It's still well within his state of mind.

Mr. [REDACTED] Within his state of mind, but, of course, his state

of mind includes ongoing investigative equities, and that's the difficulty for us.

Ms. Sachsman Grooms. How serious was your concern?

Mr. Baker. Extremely serious.

Ms. Sachsman Grooms. What would be the implications of a President firing the FBI Director in order to stop an investigation of his own campaign?

Mr. [REDACTED] Please, go ahead. Yes.

Mr. Baker. I assume I can answer that one?

So one of the implications of that would -- one -- one -- let me stress one of the implications of that would be that such an action would be contrary to the President's responsibilities and obligations under the Constitution of the United States.

BY MS. SACHSMAN GROOMS:

Q Would it also have national security implications?

A Yes, potentially.

Q And can you describe what some of those, in general, national security implications would be?

A Well, it depends on why -- are we saying a President? If we're just saying a President, it would depend on why a President was doing it. If it was done for some purpose, again, that's contrary to the Constitution and the interests of the American people, then I think that would be alarming and concerning.

Q In this instance, did you think that there was a threat to national security?

A In this instance?

Q Yes.

A Well, yes, because we had a national security investigation that was opened.

Q Did you think that the additional action of firing Director Comey added to that threat to national security?

Mr. [REDACTED] You can respond.

Mr. Baker. Yes.

Ms. Sachsman Grooms. In what way?

Mr. Baker. I'm just hesitating because I'm not sure what I can -- how much detail I can go into.

Mr. [REDACTED] Can we consult?

Thank you.

[Discussion off the record.]

Mr. [REDACTED] Thank you for that opportunity. And we thank Mr. Baker for being a very conscientious witness.

We will allow him to answer the question, again, consistent with other instructions we've given today. We do want him to confine his answer to general topics and not to discuss any ongoing investigative measure or matters.

So can you ask your question again? I'm sorry.

Ms. Sachsman Grooms. No problem.

BY MS. SACHSMAN GROOMS:

Q You had said that the President's firing of Director Comey you considered to be a threat to national security. And my question

was, in what way was it a threat to national security?

A So the investigation at a high level was about Russia, period, full stop. And it was trying to assess, in this particular instance, what the Russians were doing or had done with respect to the 2016 Presidential election. We were trying to investigate what the Russians did and what any -- and whether there were any Americans or others who had done things in support of those efforts, either knowingly or unknowingly, so that we could understand the full nature and scope of what the Russians had attempted to do.

And so to the extent that this action of firing Director Comey may have been caused by or was the result of a decision to shut down that investigation, which I thought was a legitimate investigation, then that would frustrate our ability to some degree to ascertain what the Russians as well as any other Americans or others had done in furtherance of the objectives of the Russian Federation.

So not only -- I guess the point is not only would it be an issue about obstructing an investigation, but the obstruction itself would hurt our ability to figure out what the Russians had done, and that is what would be the threat to the national security. Our inability or our -- the inability or the delays, the difficulties that we might have with respect to trying to figure out what the Russians were doing, because our main objective was to thwart them.

Q "Them" being the Russians?

A The Russians.

Q Can you pinpoint when was the first time that you had

concerns that the President of the United States would attempt or was attempting to interfere with the Russia investigation?

Mr. [REDACTED] We're going to instruct the witness not to respond to that question. Thank you.

Ms. Sachsman Grooms. Was there anything particular going on in the Russia investigation shortly before or at the time that the President fired Director Comey that would have particularly made the President concerned enough about his own personal liability or that of his close associates that the President would have taken the extreme step of attempting to interfere with the investigation?

Mr. [REDACTED] Same instruction.

BY MS. SACHSMAN GROOMS:

Q Let's start at the beginning of the Russia investigation.

As I understand it, and I believe Lisa Page explained this one to us, the counterintelligence investigation was initiated on July 31st. Were you aware of it at the time of its initiation?

A I don't remember the dates specifically, but I think I was aware of it before it was initiated, when we first received the information that started the investigation. And that -- I can't remember exactly how much of that's been declassified. But we had received information from a third party that caused us to open the investigation. I was aware of that at or about the time that it came into the Bureau. And I think that was even before officially that the investigation was opened.

Q Do you recall exactly how long after that information came

in the investigation was opened?

A I think relatively soon thereafter.

Q And you wouldn't have been involved in the actual opening of the investigation, right?

A Not that particular investigation, no.

Q What was your role?

A With respect to this particular investigation?

Q Yes, sir.

A To at -- fundamentally, to make sure that the FBI had the best legal advice -- was receiving the best legal advice with respect to the investigation from whomever had to give it or could give it. So whether from my troops, the Department of Justice, or anybody else that we needed assistance from. So that was fundamentally that.

The second part was that I played a role of a, I guess, counselor/advisor with respect to how to handle the -- many of the various aspects of the investigation when they reached the attention of the Director, the Deputy Director, or other senior leaders.

So I wasn't there every day advising agents, conducting the investigation, reviewing documents, reviewing papers as a general matter and that kind of thing. I was advising the Director, Deputy Director, other leaders about how to confront investigative matters that came up from -- on a day-to-day basis.

Q And what was the initial concern/issue raised in the investigation?

A Well, the initial -- the initial issue was whether there had

been interactions of an unlawful nature or that were a threat to the national security, or both, in connection with the -- the -- at least some people in the now President's campaign with the Russian Federation, witting or unwitting.

Q And these were related to George Papadopoulos?

A Yes. Information that he conveyed, yes.

Q Can you confirm that the initial allegation that started the Russia counterintelligence investigation had nothing to do with the Steele dossier?

Mr. [REDACTED] We'll instruct the witness he may answer if he can do so in an unclassified setting. I believe the question was a yes/no question, if he can --

Mr. Baker. Based on the information that I have seen in the public domain, I think I can answer it. And I think the answer is it did not have to do with the dossier.

BY MS. SACHSMAN GROOMS:

Q In fact, the Steele dossier was not provided to the FBI until later in 2016. Isn't that right?

A I -- yes. I'm not sure of the date when we first started to get parts of the dossier.

Q Sure. Lisa Page explained to us that, upon opening the investigation, I'm just going to quote from her, we had a number of discussions up and through and including the Director regularly in which we were trying to find an answer to the question, right, which is, is there someone associated with the campaign who is working with

the Russians in order to obtain damaging information about Hillary Clinton, end quote.

Were you part of those conversations?

A I believe so, yes. It was broader than that, I would say, but that -- I was part of conversations having to do with the Russia investigation, yes.

Q And can you describe the broader context?

A We were trying to figure out what the Russians were doing, period. Like the full nature and scope of what they were up to, part of which may have had to do with the -- with the emails. But it was really trying to understand more broadly what they were up to.

Q And how important was it at the time to keep secret the aspect of the investigation related to the campaign?

A I think our collective assessment was that it was critically important to keep it secret at that time because we were at the very, very outset of the investigation. I think everybody recognized from the outset that this would be a hard case to investigate, that we needed to move carefully so that we would not alert anyone to the fact that we were investigating this in order for us to be able to figure out what happened and to not alert, importantly, the Russians, about what we were up to and what we already knew about them.

Q Did you keep it secret?

A Yes.

Q Were there other steps taken at the FBI to keep it secret?

A I think there were -- yes, there were. I mean, there were

a number of steps taken to try to limit the number of people who had access to this information.

Q How serious was the threat to national security of these allegations that someone associated with the campaign was colluding or working with the Russians to impact the upcoming election?

A The 2016 elections?

Q Yes.

A So, again, I -- this word "colluding," I have a hard time understanding what that means, so -- we were concerned that the Russians were engaged in an effort to try to impact our elections -- that particular election, and we were trying to figure out exactly what they were doing and how they were doing it. And that -- there were various strands to that. And we were trying to learn as much as we could from our existing information that we had accessible to us and then to take logical investigative steps in a nonalerting way so that we wouldn't tip off what we were up to to understand what they were doing across the board with respect to our elections.

I'm not sure -- does that answer your question?

Q Well, was the case a priority for the FBI?

A Yes.

Q Did you think that was the right decision?

A Yes.

Q Why?

A Because if the Russians were trying to influence something as fundamental as a Presidential election, then I thought that would

be a particular threat to the country, because so much of our system depends on the integrity of our elections. So much of our constitutional system depends on the integrity of our elections.

Q Would that threat to the national security increase if the President was the elected and, therefore, obtained classified briefings and was exposed to the Nation's most sensitive secrets, if there was someone within -- if he or someone within his campaign had been, in fact, working with the Russians?

A Let me answer that generally. I guess I would say we would -- I think we would -- well, I think we were concerned about anyone who might enter government and be in a position to have access to classified or sensitive information who might provide that to a foreign power.

Q How serious would that concern be?

A Extremely serious.

[Baker Exhibit No. 3

Was marked for identification.]

BY MS. SACHSMAN GROOMS:

Q I'm going to enter into the record exhibit 3. It's Director Comey's statement for the record before the Senate Select Committee from June 8th, 2017.

A I'm ready whenever. I don't know what particular part to look at, but just tell me.

Q I'm going to -- have you read it before?

A I think I read it at or about the time that he gave it.

Q Did you watch Director Comey's testimony before the Senate?

A I watched most of it, yes. I didn't see all of it, but I watched most of it, I think.

Q To the extent that you're aware of them, did you find Director Comey's description of the events in his written and oral testimony to be consistent with the contemporaneous descriptions that he had shared with you at the time of the events?

Mr. [REDACTED] You may respond.

Mr. Baker. Yes.

BY MS. SACHSMAN GROOMS:

Q Do you believe that Director Comey accurately shared with the Senate his memory of those interactions with the President to the best of his recollection?

A Yes, I think so.

Q And why do you believe that?

A Based on conversations that I had had with Director Comey at the time of the events that he described as well as my review of the memos and discussions with him about the events after they had taken place.

Q I'm going to start with the January 6 Trump Tower briefing. It's on the first page.

Director Comey wrote that on January 6, he first met with President-elect Trump at Trump Tower in New York. It was at this meeting that Director Comey first informed President-elect Trump about the Fusion GPS dossier.

He wrote that, quote, prior to the January 6 meeting, I discussed with the FBI's leadership team whether I should be prepared to assure President-elect Trump that we were not investigating him personally, end quote.

He then wrote that he did offer President Trump that assurance.

Were you part of the FBI's leadership team with whom Director Comey discussed this briefing before it occurred?

A Yes.

Q And after this meeting, did Director Comey discuss this interaction with you?

A Yes.

Q Is this statement consistent with what Director Comey recounted to you about the meeting?

A So I'm going on just what you read orally, and so I haven't had a chance today sitting here to read the written testimony or review his transcript. But based on what you said, yes, that sounds accurate.

Q Can you describe to us any other details about the conversation that you had with Director Comey about his January 6 meeting with the President?

A So I'm going to look to the FBI to see -- I'm not sure to what extent I can go into these conversations.

Mr. [REDACTED] You may respond as long as you do so keeping your responses to unclassified information, information that you know has been officially declassified. If you're not certain, if you say so, we'll try to address that with the committees.

Mr. Baker. Okay. So, in general, I had several conversations both before and after the briefing with the Director, the Deputy Director, and other people at the FBI about both the substance and the format of this interaction.

What did we say the date was?

Ms. Sachsman Grooms. January 6.

Mr. Baker. January 6. How it was -- what was going to be said, how it was going to be conveyed, who would be in the room, and then what would -- and then getting an assessment from the Director afterwards about how it all had gone down. So I was involved in all of that trying to figure out how to do it.

BY MS. SACHSMAN GROOMS:

Q And did the Director describe to you how it went down?

A He did -- initially, he wrote a memo with respect to how it went down, which I read. At various points I read it a couple times, I think. And then I'm trying to remember if he had a conversation with us from New York. He may have had a conversation with the Deputy Director from New York. And then I heard about it from the Deputy Director. And then I think we talked about it as well when the Director was back in town.

Q And what did you hear about from the Deputy Director?

A Well, it was -- it was a summary of the meeting, again, the -- what was discussed, who was there, what the interactions were, who was -- who was taking the lead on discussing things, the fact that there was a -- sort of a, I guess you would say a sidebar discussion

in the room about how to handle certain aspects of what had been disclosed among the President and his key advisers in front of the other participants from the intelligence community that I think people found unusual. So --

Then other details. I mean, I can't remember all the details about the meeting. I haven't read the memo in a long time. But, yeah, we -- the Deputy Director gave me a high level discussion -- high level description of that, and then I got more details as time went by from the Director.

Q Were the director's details consistent with the details that you had heard from the Deputy Director?

A Yes, I think so. Yeah.

Q And were those descriptions consistent with the memo that you read that the Director wrote?

A Yes. To the best of my recollection, yes.

Q Do you remember any more details from the discussion with the Director?

A I mean, I guess other than what has been conveyed in the memo that he produced or his testimony in front of the Hill -- or on the Hill. I mean, he conveyed things about the atmospherics in the room, things of that nature, his concerns that he had going in with having to convey this information, being the one selected to convey the information, how uncomfortable he was about that. We had conversations about whether that was a good idea, a bad idea, whether somebody should go with him in that room, including, potentially, the

Deputy Director going in the room, who is an FBI agent and who could be present were statements to be made that would be related to our underlying investigation. It was ultimately decided that that was not a good idea.

But, you know, we had numerous conversations about how to handle the interpersonal aspects of the conversation that we all knew was going to be extremely difficult and uncomfortable.

Q Can you explain why you determined it was not a good idea to have an agent in the room?

A Because the Director -- to the best of my recollection, the Director was anticipating a long relationship with the President, and he wanted to have that relationship founded on -- founded on trust. And -- meaning that the -- that the President could count on the Director to always tell him the truth and to advise him to the best of his ability.

And so by bringing anybody else into the room to discuss this sensitive material that was being described to the President, we thought that that might throw off that dynamic, that would be one thing. That it would not allow a relationship of trust to get off on the right foot. And it would also then convey, which would have been accurately, that we had an agent there who could become a witness were there to be any problems down the road. And that -- and that, you know, Andy McCabe, in this case, is authorized and could have produced an FBI 302 with respect to the interaction, which is of a very different tenor than a conversation -- a conversation about a sensitive matter between

the Director and the President of the United States.

[12:15 p.m.]

BY MS. SACHSMAN GROOMS:

Q Following the meeting, did Director Comey share any concerns with you about the meeting?

A Concerns. I mean, he -- I think he described what happened and his uncomfortableness with being the person having to convey this information to the President and what it meant for the President's thoughts about the Bureau and how he would think about the Bureau, how he the President would think about the Bureau and whether he would think negatively about the Bureau, and how that would impact us. Things along those lines.

Q Let's turn to the January 27th dinner at the White House. That's the next meeting that's recounted in Director Comey's statement. It's a January 27th dinner in the green room at the White House. Director Comey wrote that he received the invitation around lunchtime and that he arrived at the White House to find that he and the President were dining alone.

Director Comey wrote, quote: "The President began by asking me whether I wanted to stay on as FBI Director, which I found strange because he had already told me twice in earlier conversations that he hoped I would stay, and I had assured him that I intended to," end quote.

He also wrote, quote: "My instincts told me that the one-on-one setting, and the pretense that this was our first discussion about my position, meant the dinner was, at least in part, an effort to have me ask for my job and create some sort of patronage relationship. That

concerned me greatly, given the FBI's traditionally independent status in the executive branch," end quote.

The President then informed Director Comey, quote: "I need loyalty, I expect loyalty," end quote.

Did you discuss the dinner invitation with Director Comey before he attended?

A To the best of my recollection, no.

Q Did you discuss the dinner with Director Comey after it occurred?

A Yes.

Q Is this statement consistent with what Director Comey recounted to you about the meeting after it happened?

A Yes.

Q Do you recall him recounting to you the President's statements about needing and expecting loyalty?

A Yes.

Q Did Director Comey express concern about that?

A Yes.

Q What was the concern?

A That he didn't want to give an impression that he was pledging undying loyalty to the President, and he talked about how he -- there was a discussion of the loyalty at the outset of the conversation. The conversation then went in many other directions, and then the President looped back to the -- my recollection is the President looped back to the conversation about loyalty at the end.

And Director Comey described to me how he tried to make sure that while the President was talking about these topics, that he kept his head exactly level and never made any effort to nod one way or the other, to make any head movements, because he didn't want the President to misinterpret any head movement as an acceptance of what the President was saying -- so he was very focused on that -- and that, yeah, he tried to convey to the President he was going to be -- the message, I believe, that he was trying to convey that he talked to me about was that he would be loyal to the President in the sense that he would tell the President the truth, he would give the President his honest -- he would tell him truthful facts and that he would convey his honest opinion about whatever the President in the future would ask him about, especially given the sensitive role the FBI plays within the executive branch and the government. And so that is what he tried to convey, and that Director Comey and I in the past had talked numerous times about the importance of having relationships based on that kind of honesty, and, for example, that's the kind of relationship that he and I had and expected from each other, and so that's what he was trying to convey.

It was an extremely uncomfortable -- he described it as a very uncomfortable meeting overall, and he was quite concerned about it.

Q Did you share the concern?

A Based on what he was telling me, I was concerned also about what was going on, yes.

Q In your 24 years at the FBI, had you ever had anything like

that happen?

A No.

Q I mean, is it fair to say --

A Well, 24. It was 4 years at the FBI and 20-some odd years at the Department of Justice, yeah.

Q I apologize.

A Yeah.

Q In your 20-some odd years at the Department of Justice and 4 years at the FBI, had you ever had anything like that happen?

A No.

Q What's the concern about the President of the United States demanding loyalty or requesting loyalty from the FBI Director?

A So I guess the -- I have to try to give you a structured answer. I would have to think about it for a moment here. I mean, there are concerns at a number of different levels.

The FBI is supposed to be and is trusted, I think, by the American people, the other parts of the executive branch, the Congress, to be independent and professional and to render its views without respect -- to render its views and conduct its activities without respect to political party, political affiliation, an eye towards the political impact of what we would be doing, how that would play out. And so for an FBI Director to somehow pledge loyalty to one particular President would fundamentally undermine, I think, if it were to be learned by the public, it would fundamentally undermine in the minds of a significant portion of the public that confidence that the FBI

was an independent law enforcement and national security agency, so it goes to sort of the core of what the FBI is all about.

Q Would there be concerns even if the public didn't learn about it?

A Absolutely, yes, because behind closed doors -- eventually the public would learn about it, but even so, yes. I mean, it would call into question what we were doing and whether we were doing things in a lawful way and whether we were -- we ourselves were adhering to our oaths to the Constitution.

Q Is it fair to say that you believe that the FBI should act in an independent fashion and not take direction on specific matters from the President?

A Well, it's -- no, I wouldn't go that far, because especially, you know, for example, in a counterterrorism matter, let's say, there are regular interactions between the FBI and the President of the United States, regardless of who that is; especially, you know, if you think about President Bush after 9/11, the FBI had numerous interactions with the President to keep him informed, to keep him up-to-date. So certain types of interactions with the President are not only natural; they're expected and necessary. But with respect to pledging loyalty to a particular occupant of the office, that is something else, and to pledge loyalty to any political party is something else as well, if that's what was being discussed.

Q Did you think that the request was improper, the request of the President, that the loyalty pledge was improper?

A I had grave concerns about it.

Q What were your grave concerns?

A Well, along the lines that we just discussed. And I also worried -- I mean, one of the things that I worried about was whether, and then discussed with Director Comey, whether the President was -- whether the President, because he was new to government, perhaps didn't understand all of the intricacies of the relationships that had existed over time within the government and how the FBI had handled itself with respect to its exercise of its duties. I was concerned that people around the President might not be giving him the best advice with respect to that.

And so I had hoped that the FBI might be able to play a role in terms of helping the President understand how we helped him execute his responsibilities under the Constitution and laws of the United States and that we would be able to educate him in some fashion.

Q On January 24, 2017, the FBI had a voluntary interview with Michael Flynn during which he lied to FBI agents about his conversations with the Russian ambassador, Sergei Kislyak.

Were you aware of that at the time?

Mr. [REDACTED] I'm sorry. We will have to instruct the witness not to respond to the question.

BY MS. SACHSMAN GROOMS:

Q On February 13, 2017, the President fired National Security Advisor Michael Flynn. The next day, on February 14th, Director Comey met with the President alone in the Oval Office at the President's

request. That is described in Director Comey's statement before the Senate Select Committee on Intelligence.

He states, and I quote, I'm on page 5: "The President began by saying Flynn hadn't done anything wrong in speaking with the Russians, but he had to let him go because he had misled the Vice President. He added that he had other concerns about Flynn, which he did not then specify."

The President then said, according to Director Comey, quote: "'He is a good guy and has been through a lot.' He repeated that Flynn hadn't done anything wrong with his calls with the Russians but had misled the Vice President. He then said, 'I hope you can see your way clear to letting this go, to letting Flynn go. He is a good guy. I hope you can let this go.'"

Did Director Comey discuss the February 14 interaction with you --

A Yes.

Q -- at the time?

A Yes.

Q Is Director Comey's written statement consistent with the way that he described the events to you after the meeting?

A Yes.

Q Did the meeting cause him concerns?

A Director Comey?

Q Yes.

A Based on what he told me, the answer is yes.

Q Why?

A Again, it's concerns at a number of different levels having to do with the independence of the FBI; the President speaking to the FBI Director about a particular case that we were handling, that was of particular concern; the implication that the President was trying to direct an outcome with respect to that particular investigation. They were very alarming on a number of different levels.

And I think -- if I'm not mistaken, I think this is the meeting when the President excluded the Attorney General and others from the meeting, and Director Comey discussed at length with me that issue and the fact that he was quite concerned about that fact.

Q Did you share his concerns?

A Yes.

Q In Director Comey's statement, he described, and I quote: "I had understood the President to be requesting that we drop any investigation of Flynn in connection with false statements about his conversations with the Russian Ambassador in December," end quote.

Is that what he relayed to you at the time?

A I don't remember those exact words, but generally speaking, yes.

Q Did you also have concerns that the statements by the President were requesting that the FBI drop the investigation of General Flynn?

A Yes.

Q And why would it be concerning if the President asks the FBI to drop the investigation of his National Security Advisor?

A Well, A, it's an investigation, period. It's the President, I mean, I guess you would say breaking a norm in that sense, the President actually intervening while it's going on with respect to a particular investigation.

It also goes back to what we talked about earlier. It has to -- it's not just some investigation; it's an investigation that is also related to the Russia matter that we were investigating, right, so it was not a freestanding independent investigation; it was something related to these other things. So it was alarming in that regard, too.

Q Is it alarming even if the FBI has no intention of dropping the investigation?

A Well, we didn't have any intention of dropping the investigation, so -- but it's alarming nonetheless, yes, because we'll -- you know, at a minimum, the existence or the fact of the -- at a bare minimum, the fact of this conversation just, again, looks bad if it were to ever -- would look bad if it were to ever become public, because it looks like the President's trying to put his finger on the scale to cause the investigation to go in a particular way, and that would hurt the FBI's credibility and reputation for independence. That was very alarming.

Q You said it would look like that to the public. Did you believe that's what actually was going on?

A That the President was trying to put his finger on the scale? Yes, that's what I thought was going on.

I was quite concerned with all of these interactions between the Director and the President and had numerous conversations about that. I don't know if we'll get to that, but, anyway, I was uncomfortable with the way that these conversations were -- the fact that they were occurring in the first place and the way they were going, and the Director and I talked about how to try to deal with that. That eventually played out over time. That eventually plays out, and you see that in the memos as things progress.

Q Is it fair to say that your concerns were growing as the conversations continued?

A Yes.

Q And why is that?

A Because they touched on -- they continued to touch on matters that I thought were not appropriate, a good idea to be talking to the President of the United States about directly with the FBI Director. And I thought if there were to be interactions between the President and the Department of Justice about a particular matter, that those should go through his staff to the Attorney General or the Deputy Attorney General, as opposed to directly to the investigative agency, including the Director.

Q Was that the practice in the previous administration?

A That's generally how -- I mean, the practice ebbs and flows and changes over time depending upon which administration is in power

and the preferences of the AG and the White House counsel and the President and that kind of thing, and then also what kind of a matter you're talking about, for example, as I said earlier, counterterrorism, but generally speaking, you know, the White House is not calling the FBI about particular ongoing criminal investigations that are not directly related to some urgent threat or something like that.

Q And had the -- was it unique that the White House was contacting -- or the President in this case was contacting the FBI directly about a matter that concerned the President's staff? I mean, had something like that ever happened before?

A I can't say whether it ever happened before. To the -- based on what I know, it was unique, I guess, in that -- I was unaware of prior instances of that. I can't say whether these kinds of conversations had taken place in prior administrations with prior Directors, that kind of thing.

Q Is it more concerning if the President is having that kind of contact and directing the FBI to stop an investigation of somebody that he knows or has a personal relationship with or works with him or he has a financial relationship with?

A That's concerning. That would not be typical.

Q You alluded to the fact that, at some point, you had a conversation with Director Comey about an ongoing concern about these conversations with the President and how to deal with them. Can you explain when that occurred?

A I had numerous conversations with the Director over an

extended period of time about how to effectively interact with the President, and so I don't -- so it was, you know, starting before the January 6 meeting, which was obviously before he became President, and then continuing up to and around the time that he, Director Comey, was fired.

Q In this timeframe, right, which is around the firing of General Flynn and this request to drop the General Flynn investigation, do you recall what those conversations with Director Comey were about?

A Not specifically, sitting here today. Generally what happened was if the Director knew that he was going to have a conversation with the President, we might talk about it beforehand. He would go have whatever conversation. We would talk about it afterwards. Sometimes I would read his memos that he had prepared. I didn't -- I don't think I read all of them contemporaneously, but I think I read most of them. Then I might loop back with him and have a further conversation with him about it. We would have lunch sometimes in his office and we would talk about how to interact and how to handle these situations, what the right thing to do for him as the leader of the organization, for the organization, for the Department of Justice, how to help the President deal with this new situation that he's encountering as President for the first time, and how to protect himself, he the Director personally, with respect to these interactions. Yeah. So we talked about a lot of things with respect to all this.

Q Director Comey described in his statement, quote: "The FBI

leadership team agreed with me that it was important not to infect the investigative team with the President's request, which we did not intend to abide," end quote.

He also stated that the leadership team discussed whether to share the President's request with the Department of Justice, which it did not do.

Were you involved in those discussions?

A Yes. I think it was my idea to make sure that that did not happen, that we had to be very sensitive about who was being exposed to these conversations.

Q I'm sorry. Just to be clear, because I had combined two things in one, it was your idea to make sure that which thing did not happen?

A That we made sure that -- there was one meeting in particular where the Director was describing, I can't remember exactly which interaction it was, with the President, and I was alarmed about it and said that we needed to take steps to make sure that none of the actual investigators learned about these interactions and what they were discussing so that they -- so that, to the extent that this was intended to influence them, that we would make sure that it did not.

Q Were you part of the discussion about not sharing the President's request about General Flynn with the Department of Justice?

A That, I don't remember specifically, sitting here today.

Q The written statement describes that Director Comey subsequently informed Attorney General Sessions about the President's

concerns with leaks and that he, quote, "took the opportunity to implore the Attorney General to prevent any future direct communication between the President and me. I told the AG what had just happened - him being asked to leave while the FBI Director, who reports to the AG, remained behind - was inappropriate and should never happen," end quote.

Did Director Comey discuss his intention to raise this concern to the Attorney General with you before he did it?

A Yes.

Q And did he talk to you about it after?

A I think so.

Q Is this statement --

A I can't remember specifically right now, but I know we had numerous conversations about pushing this out -- making -- pushing this away from the Director and making sure that these interactions, to the extent that they were going to occur, would occur between the Department leadership and the President or his staff.

I was -- I was urging the Director to not have these interactions anymore and to have them go through the Department of Justice.

Q And is Director Comey's statement in his testimony before the Senate Select Committee consistent with what he recounted to you about his meeting with the Attorney General?

A I don't remember all the parts of that, especially the parts about the leak at the start, that doesn't ring a bell with me, but generally speaking, that he would prefer that these interactions took place between the AG or the DAG and the President, yes.

Q Do you recall how the Attorney General responded -- or how Director Comey described to you that the Attorney General responded?

A I remember discussing it, but I can't remember the details of it right now, but I think that the -- I think the Department was receptive to taking on a more active role in trying to deal with these types of interactions.

Q Let's go to the March 30th call. The written statement then says that on the morning of March 30th, President Trump called Director Comey at the FBI. Director Comey wrote that the President, quote, "hoped I would find a way to get it out that we weren't investigating him," end quote.

And then he shifted the conversation to Mr. McCabe, raising concerns about a potential conflict of interest because Governor McAuliffe, who is close to the Clintons, had donated to Mr. McCabe's wife's campaign.

Director Comey wrote that immediately after the conversation, he called the Acting Deputy Attorney General to report the substance of the call from the President.

Did Director Comey discuss this interaction with the President with you after it happened?

A Yes.

Q Did he disclose to you the comments by the President about Mr. McCabe?

A Yes.

Q And did he discuss with you that he was calling the Acting

Deputy Attorney General Dana Boente at the time?

A Yes, because I think I urged him to do that.

Q Are the facts in Director Comey's written statement consistent with what he recounted to you about the call?

A I haven't read these statements today, but my recollection having read it before and what he testified about is that he accurately portrayed what he had told me, what we had discussed at the time.

Q Why did you urge him to call the Acting Deputy Attorney General?

A Because I thought that he needed to get out of these kind of -- he, the Director, needed to get out of having these kind of interactions and needed to get some cover from the Department, and to tell them about it, and to get them to take over this role as quickly as possible in terms of interacting with the President about ongoing matters. I just didn't feel comfortable with it and thought it was not a good idea for the Director to be having these conversations.

Q Let's turn to the April 11th phone call. Sorry. There are a lot of these. This is the last interaction that Director Comey wrote about. The President asked what Director Comey, quote "had done about his request that I 'get out' that he is not personally under investigation," end quote.

Director Comey recounted that the President stated to him, quote, "'Because I have been very loyal to you, very loyal; we had that thing you know,'" end quote.

Did Director Comey discuss this interaction with the President

with you after it happened?

A Yes, to the best of my recollection.

Q Do you recall him recounting to you that the President stated, "Because I have been very loyal to you, very loyal; we had that thing you know"?

A Yes, he talked about that part with me.

Q Did that concern him?

A Yes.

Q Why?

A Because he thought that the President was misremembering the conversation at the dinner. I think that's what the Director interpreted that to mean. Well, the Director told me at the time that he had -- that he believed that the President was referencing the loyalty conversation that took place at the dinner and that somehow the President was misremembering those facts, or the facts of what actually took place in the conversation.

And at some point in time, I think there's a part of this conversation I think when the Director didn't agree with some part of what the President was saying, he perceived a change in the President's demeanor and tone with respect to what -- with respect to the rest of the conversation, if I'm remembering correctly the conversations.

Q Were the facts in Director Comey's written statement consistent with what he recounted to you about his call?

A Again, I haven't read it today, but that's my recollection from having looked at it in the past.

Q Is it fair to say that the repeated and ongoing contacts increased your concern at the time?

A Yeah. I haven't done an analysis of the frequency of them to tell whether they were increasing or decreasing, but the nature and scope, the subject matter of what was being discussed alarmed me considerably and I just didn't think it was a good idea to have the Director continue these conversations with the President -- and to try to figure out a way to get him out of having these types of interactions and get this in a different lane.

Q Were these conversations that we've discussed that are recounted in Director Comey's statement to the Select Committee on Intelligence part of why you had concerns when Director Comey was fired that the President had fired him in order to impede the Russia investigation?

Mr. [REDACTED] May we consult?

[Discussion off the record.]

Mr. Baker. Okay. I'm sorry. Just for the record, could we just get the question -- or can I just get the question again?

Ms. Sachsman Grooms. I will try my best.

Were these conversations that we've been discussing and that Director Comey recounted in his testimony before the Senate Select Committee, these conversations that Director Comey had with the President, part of why you had a concern when the President fired Director Comey that he had done so in order to impede the Russia investigation?

Mr. Baker. Yes.

Ms. Sachsman Grooms. Can you describe it in any more detail?

Mr. [REDACTED] I think we've instructed the witness not to elaborate.

Ms. Sachsman Grooms. Got to try.

BY MS. SACHSMAN GROOMS:

Q Did Director Comey explain to you why he decided to write the memos and share them with you?

A Yes, he did.

Q And what was his explanation?

A His explanation was that he was concerned about, again, the nature and scope of these conversations and wanted a more or less contemporaneous record of what was discussed in case there were questions -- he was ever questioned about it down the road.

Q Who did he anticipate he'd be questioned about it down the road by?

A It could be the Congress in particular, the public, inspector general.

Q Did you agree with him that it was a good idea to make these memos, the contemporaneous memos?

A Yes, I did.

Q And why did you think they were important?

A For the exact same reasons that he did.

Q And I'm sorry. I think I've asked this before, but you believe that Director Comey's memos were accurate to the best of his

recollection?

A The memos were -- obviously, I was not in the meetings or on these phone calls. The memos were consistent with the oral statements and oral descriptions that the Director provided directly to me at or about the time of the events and at or about the time that he did the memos.

Q Did you ever have any concerns that the memos, writing the memos might be considered improper or wrong?

A No, I didn't think that. I mean, they reflected, unfortunately, I think, the fact that the President was saying things that we thought required there to be memos about.

Q Which in its own sort of very nature you found to be disturbing?

A Yes, disturbing, unfortunate. I'm not sure. It just did not bode well for the relationship between the President and the Director and the FBI in general.

Q You said originally that, at some point early on, you thought the problem was just that the President didn't understand the nature between -- the nature of the traditional relationship between the FBI and the White House.

Did you come to a point where you thought or felt that he did understand it and was just ignoring it?

A That's hard for me to answer. I don't specifically remember thinking that. Yeah. I don't specifically remember thinking that.

Initially, it was my -- and I urged the Director to try to figure

out a way to help the President understand more about the historical role for the FBI and why it was that way, but that the nature of the conversations with the President were such that it was difficult or impossible for the Director to present that type of information to him.

And then as time went on and the President seemed to be -- well, having the types of conversations that he had with the Director, I became, I guess -- I came to the belief that the President would not be interested in that kind of a conversation, given what he was doing, but I remained concerned that the President was not getting good advice from people around him in the White House who should have been steering him away from these kinds of conversations. Like, in other words, why didn't someone tell him, "You shouldn't be alone with the Director of the FBI. That is a bad idea for you"? Forget the FBI. "That's a bad idea for you. That looks bad. That's breaking all kinds of norms." And it would have seemed to me that somebody around the President should have been looking out for his best interests and telling him not to do that.

Q But was it your impression that Director Comey attempted to communicate to the President the norms that he thought were the appropriate norms?

A He tried to, especially later on when he raised this issue of, "Mr. President" -- I don't remember the exact words, "but these kinds conversations really should take place between the Department of Justice and you or the White House, White House counsel, that kind of thing, chief of staff."

Q And did the conversations continue after that?

A No. I think they eventually ended after the one that you cited; I don't remember the exact date of it, April 11 or something like that.

Q And did --

A It may have been the case that -- I think the Director at that point in time took a firmer line with the President about how "these conversations were not a good idea, sir," and that's when, again, I think the President's tone changed a bit and -- but I think the conversations stopped at that point in time.

Q And then Director Comey was fired?

A Eventually, a few weeks later, yeah.

Ms. Sachsman Grooms. I believe I'm out of time. Let's go off the record.

[Recess.]

Mr. Gaetz. Matt Gaetz representing Florida. I want to offer my objection on the record to this proceeding occurring behind closed doors. I know of no House rule that binds any of the Members or any other observers or witnesses to the confidentiality provisions that were expressed at the beginning, and I don't consider myself bound by them, and I wanted to log that objection for the record.

Mr. Meadows. So, Mr. Baker, let me come back to a few things.

Mr. Baker. Excuse me, sir. The FBI is not here right now, so --

Mr. Meadows. We would prefer to go without the FBI. We'll hold the clock.

[Recess.]

Mr. Meadows. All right. So, Mr. Baker, we'll go back on the record. And I wanted to follow up on just a few things. One is, when you came in today, you mentioned that in terms of other people coming to you directly, Larry Klayman actually came to you directly, and that's the only other time that you could recall, but you clarified the record from our previous time together that him coming to you to actually give you documents -- was it documents he was giving you?

Mr. Baker. Well, he didn't give them to me. It was -- what I remember is he wanted to come specifically to either me or the Director, because he lacked confidence in other parts of the FBI, and to basically get me to get the FBI to take these electronic media. I don't think they were printed documents. I could be wrong, but I think --

Mr. Meadows. Were there six thumb drives? Does that ring a bell?

Mr. Baker. I think it was more massive than a thumb drive. I think these were very large --

Mr. Meadows. Yeah. Six different ones, is what I --

Mr. Baker. Six or some number, yeah. A large number of very high-capacity --

Mr. Meadows. And what did he indicate that this was proof of?

Mr. Baker. To the best of my recollection, and I haven't gone back to look at it, but it was an allegation that there was an effort within the United States Government to conduct unlawful surveillance of other Americans, including government officials.

Mr. Meadows. Did he indicate that there was surveillance of Members of Congress?

Mr. Baker. I can't remember that specifically. I remember him telling me that it had to do with members of the judiciary. I think it was a range of government officials. I don't specifically remember Congress, but it certainly could have been, and it was --

Mr. Meadows. Did he indicate that there was surveillance of Donald Trump and his associates?

Mr. Baker. Sitting here today, I can't specifically remember that. I'm sorry. And I haven't gone back and looked at anything since that time.

Mr. Meadows. So, when you were given this, did the FBI investigate that?

Mr. Baker. Eventually, yes. FBI agents went and seized the material, not me. FBI agents went out and seized the material.

Mr. Meadows. Did you open an investigation on it?

Mr. Baker. To the best of my recollection, yes.

Mr. Meadows. Is that investigation ongoing?

Mr. Baker. I don't -- when I left the Bureau, I believe there were no further investigative activities occurring, but I don't know that it was technically closed.

Mr. Meadows. Was George Papadopoulos surveilled by extraordinary measures?

Mr. [REDACTED] We're going to have to instruct the witness not to respond to that question.

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Mr. Meadows. Under what grounds?

Mr. [REDACTED] Again, our understanding is that it pertains to an ongoing investigation.

Mr. Meadows. Mr. Papadopoulos has been sentenced, and that investigation is over as it relates to Mr. Papadopoulos.

Mr. [REDACTED] I certainly understand your point, Congressman, that he has been sentenced, but our concern is that answers the witness may give could still affect the ongoing investigation. It may not affect Mr. Papadopolous' personal legal jeopardy, but our concern is that it could affect the overall investigation itself.

Mr. Meadows. So, in any event, you're instructed not to answer it.

Would it surprise you to know that there is credible evidence that Mr. Papadopoulos was surveilled in a manner with either tapes or some kind of recording device? Would that surprise you?

Mr. [REDACTED] We'll give the same instruction.

Mr. Meadows. So, Mr. Baker, then, let me ask it in more of a generic sense.

Is it common practice for the FBI to actually surveil individuals without their knowledge, U.S. citizens, and tape them for investigative purposes with confidential human sources?

Mr. Baker. So, as a general matter, it is an approved investigative technique under Attorney General guidelines and internal FBI policy to allow that to occur with appropriate predication and appropriate approvals. I can't remember the specific approvals,

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sitting here today, for where it --

Mr. Meadows. Would you be part of those approvals?

Mr. Baker. In a particular case, usually not.

Mr. Meadows. If it involved a Presidential campaign, would you have been involved in it?

Mr. Baker. So I was not involved in -- so, for example, in the two Presidential campaigns in 2016, I didn't usually -- usually -- get involved in details of the investigations like that.

Mr. Meadows. So what do you mean "usually"?

Mr. Baker. Well, sometimes --

Mr. Meadows. Did you get involved?

Mr. Baker. Well, sometimes, for example, the Hillary Clinton search warrant, or the Anthony Weiner --

Mr. Meadows. Yeah. In fact, that was part of when I went back and forth, you talked about the narrow scope and the fact that some of those emails weren't read because of the narrow scope, and that's what I've read more about you than anything else.

So, if we look at this, the claims that have been made about some members of the Trump campaign being surveilled, it is within the scope that that is possible, is what you're saying?

Mr. Baker. Well, okay. So "surveilled" to me has multiple meanings, meaning electronics --

Mr. Meadows. You can take electronic --

Mr. Baker. Physical surveillance.

Mr. Meadows. -- taped. No, I'm not talking about physical

surveillance. I'm talking about taped, extraordinary measures where they would either tape conversations, wiretap conversations. Is it within the realm of possibility that that happened?

Mr. Baker. Is it within the realm of possibility? Given the constraints of what the FBI --

Mr. Meadows. No. He's not constraining you.

Mr. Baker. I'm having a hard time answering.

Mr. Meadows. Do you want to follow up and clarify?

Mr. Ratcliffe. Yeah. Can I?

Mr. Meadows. Yeah.

Mr. Ratcliffe. So, Mr. Baker, were you involved in the FISA application with respect to Carter Page?

Mr. Baker. Yes.

Mr. Ratcliffe. All right. And the Russia counterintelligence probe was opened by Peter Strzok, correct?

Mr. Baker. I believe I've heard that in the press. I don't specifically remember myself.

Mr. Ratcliffe. All right. And also it's been reported in the press and in testimony, it was opened based on intelligence relating to George Papadopoulos having a conversation with an Australian diplomat?

Mr. Baker. I don't know whether the country of origin of that person has been publicly disclosed, but the information had to do with George Papadopoulos, yes.

Mr. Ratcliffe. And the conversation that he had with a foreign

diplomat?

Mr. Baker. I don't even know if we've identified -- I just, I really don't know what's been made public.

Mr. Meadows. It's been widely reported.

Mr. Ratcliffe. It's okay. I don't -- but I'm just trying to understand your knowledge as someone that was involved in that FISA application.

Mr. Baker. There had been a conversation between George Papadopoulos and another person, and that information was relayed to us.

Mr. Ratcliffe. Okay. And --

Mr. [REDACTED] If I may. I'm sorry. I don't want to keep interjecting. I know you're trying to move fast.

Again, if you can respond to a question about the Carter Page FISA application without discussing information that's classified, please go ahead. Feel free to respond to this line of questioning.

Mr. Ratcliffe. So that conversation and the basis for which the Russia probe was opened allegedly related to Trump campaign officials working with the Russian Government to access hacked emails of either Hillary Clinton or the DNC, correct?

Mr. Baker. I don't remember the specifics of the reporting. If you had a piece of paper to look at it, but generally speaking, that sounds correct to me. I'm not 100 percent sure, but I --

Mr. Ratcliffe. Okay. So question for you. Prior to the October 21, 2016, FISA application, the initial FISA application, had

you seen contradictory or exculpatory evidence about whether or not George Papadopoulos had any knowledge about Trump campaign officials working with the Russian Government?

Mr. Baker. Exculpatory information about Papadopoulos.

Exculpatory in what sense?

Mr. Ratcliffe. Exculpatory or contradicting --

Mr. Baker. Contradicting his initial report?

Mr. Ratcliffe. Yes.

Mr. Baker. Not to my recollection, sitting here today.

Mr. Ratcliffe. Okay. If there was exculpatory or contradictory evidence, would you agree with me that that should have been presented to the Foreign Intelligence Surveillance court in October of 2016?

Mr. Baker. Again, not knowing what you're talking about, but generally speaking, the government has a very high duty of candor to the FISA court and should make -- and must make sure that all material information is provided to the FISA court. So, if there is information that undercuts the reliability of information that we're putting forward, then generally speaking, yes, it should be -- the court should be informed of that.

Mr. Ratcliffe. Thank you.

Mr. Meadows. And so, if, indeed -- because on that particular FISA application, going back to our previous conversations the other day, you reviewed the FISA application as it related to the probable cause portion of that. Is that correct?

Mr. Baker. That's my recollection. The first one, at least.

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Mr. Meadows. Right. So how many FISA applications did you review as it relates to Russia?

Mr. Baker. In my career or at --

Mr. Meadows. Yeah. As it relates to Russia collusion, this whole -- how many FISA applications did you review?

Mr. [REDACTED] I think we will have to instruct the witness not to respond to that.

Mr. Meadows. On what basis?

Mr. [REDACTED] Again, Congressman, by discussing the frequency and the quantity of use of that particular investigative technique, which is, as you know, quite sensitive and almost always classified, our concern is that it could impede the ongoing special prosecution.

Mr. Meadows. Well, there was a text message in a nonclassified setting that would indicate that there were multiple FISA applications, as many as 17 different FISA applications that may or may not have related to this particular subject. Would it surprise you to know that there were -- or is there more FISA applications beyond just the Carter Page FISA application that we've been discussing as it relates to this investigation?

Mr. [REDACTED] Again, in the abstract, we'd give him the same instruction. However, I certainly take your point, Congressman, if there's a particular text that the FBI's produced that you'd like to --

Mr. Meadows. There's multiple texts. There's multiple texts that would indicate Lisa Page -- it's in a text message between Lisa Page and Andy McCabe that says, you know, your particular -- I can read

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it. Would you like me to read it?

Mr. [REDACTED] That actually would be extremely helpful, Congressman. Thank you.

Mr. Meadows. Okay. On October the 19th, 2 days before the FISA was opened on Mr. Page, it's Lisa Page going to Andy McCabe: There will be nine packages for you to sign, with the possibility of eight additional if the NSLB signs off on them. They'll probably won't be WUDsd (ph) by 7:30. The FISA team will be delivering them at 7.

So that would indicate multiple FISAs that may or may not relate to this, but as your -- since you reviewed those, were there more than one FISA application candidate or subject other than Carter Page? Were there other FISA applications? And this was in a nonclassified setting, text messages back and forth.

Mr. [REDACTED] Again, Congressman, I appreciate your reading the text for us. My understanding of those texts is that they do not necessarily relate to the special counsel or the Russia investigation.

Mr. Meadows. It's great -- Counsel, I'm not asking you the question. I'm asking him a question. Does he have knowledge of anybody else involved in the Russia investigation where a FISA application was taken out on them?

Mr. [REDACTED] Respectfully, Congressman, I'm certainly not disagreeing or arguing the point that you're making, but I'm explaining the basis for our objection that stands.

Mr. Meadows. Okay. I would ask that counsel goes back and get us an answer to that. And even if we've got to have that in a classified

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setting, that would be appropriate.

Mr. [REDACTED] We certainly anticipate your following up with our employer about that.

Mr. Meadows. No. I'm asking you to follow up so I don't have to.

Mr. [REDACTED] We certainly will do so.

Mr. Meadows. Okay.

Mr. [REDACTED] For clarity, read back the specific question pending, please.

Mr. Meadows. So let me restate it so you don't have to read it back.

Were there other individuals connected directly or indirectly with the Trump campaign that had a FISA warrant placed on them for the purpose of surveilling conversations and collecting data other than Carter Page that you're aware of?

Mr. [REDACTED] And the same instruction --

Mr. Baker. I'm not going to answer it right now.

Mr. [REDACTED] -- but we'll represent to the committee that we will take this back and check on obtaining an answer to that question if we are able to do so.

Mr. Meadows. All right. So let me finish up, and then I'll yield back to the gentleman from Ohio.

There is great concern, from my standpoint, with regards to the actions of Mr. Rod Rosenstein in terms of his state of mind. You said you questioned his state of mind when he said that -- now, certainly

you didn't mean that you questioned his state of mind in terms of was he capable of carrying out his job. Is that what you meant?

Mr. Baker. It was a bad idea for a number of reasons, this idea of wearing a wire. So --

Mr. Meadows. I understand it was a bad idea, but were you questioning his ability to carry out his job?

Mr. Baker. I was not questioning his ability to carry out his job. However, I knew that he was quite upset at the time about what had happened. I --

Mr. Meadows. He was quite upset about being blamed for Director Comey's firing?

Mr. Baker. Yes. Among other things, yes. That's my understanding. I didn't talk to him directly about that, but that's what I heard from others.

Mr. Meadows. Okay. So, if that is indeed the case that he was concerned, did you elevate that concern to anybody else?

Mr. Baker. I was speaking directly to the Acting Director of the FBI about it, so I didn't know where else I could go.

Mr. Meadows. So what actions did Mr. McCabe take on that?

Mr. Baker. Well, I think, like, for example, with that idea, the wearing a wire idea, the FBI, to the best of my knowledge, took no further action, because it was something that --

Mr. Meadows. But they didn't tell anybody? They didn't tell the Commander in Chief. They didn't tell anybody else that, "Hey, we're thinking about taping the President of the United States"?

Mr. Baker. To my knowledge, they didn't tell anybody outside the Bureau.

Mr. Meadows. Do you think that -- you know, you were talking earlier about it looking bad? Do you think that looks bad, that you wouldn't tell somebody that you might be taping the President of the United States?

Mr. Baker. So the only -- so the --

Mr. Meadows. Because you're not an independent agency. I want to make clear. You've been talking about independence. You are not an independent agency.

Mr. Baker. I understand well the nature of the FBI's --

Mr. Meadows. Well, but you've been kind of characterizing it very different. You talk about independence, and we certainly want you to have a fair and independent investigation, but you are not an independent investigation. You go to the -- you know --

Mr. Baker. We're not --

Mr. Meadows. -- you report up to the AG, and you are a function of the executive branch.

Mr. Baker. I agree completely.

Mr. Meadows. Okay. So did you not have an obligation to let someone know that someone may be trying to tape the President of the United States?

Mr. Baker. At that time, I did not think we had an obligation to tell anybody.

Mr. Meadows. And why is that? Because you thought it was a good

idea?

Mr. Baker. I didn't think it was a good idea.

Mr. Meadows. No, you didn't think it was a good idea. So, if you thought it was a bad idea, why would you not communicate that up the line?

Mr. Baker. So, up the line, the only person --

Mr. Meadows. Other than the other person that was in the intimate conversation with you, Mr. McCabe. Why would you not notify someone like the White House counsel or someone like that? Why would you not do that?

Mr. Baker. Because I didn't think that the suggestion, even though it was operationally a bad idea, I didn't think it was an illegal concept that the Deputy Director was -- or that the Deputy Attorney General --

Mr. Meadows. So you wouldn't think that it would be insubordinate?

Mr. Baker. Insubordinate?

Mr. Meadows. Yeah. You got the number two guy at DOJ going to tape his boss. I mean, if I came and taped you, wouldn't you think that that would be insubordinate? You know, if I'm taping everything right now, would that be in keeping with what is normal protocol, as you would say?

Mr. Baker. Everything's being taped right now. I'm well aware of that, Congressman. So -- but I didn't --

Mr. Meadows. Would it not be insubordinate?

Mr. Baker. I didn't think it was unlawful, immoral.

Mr. Meadows. I didn't ask that. You answered that the other day.

Would it have been an insubordination?

Mr. Baker. I'm not sure I would use that word.

Mr. Jordan. Did you tell the Attorney General?

Mr. Baker. I beg your pardon?

Mr. Jordan. Did you tell the Attorney General?

Mr. Baker. No, I did not tell the Attorney General.

Mr. Meadows. Did anybody tell the Attorney General?

Mr. Baker. Well, the Attorney General, if my -- I believe was recused by this point in time.

Mr. Meadows. He was recused on Russia. He was not recused on obstruction or anything else, and so, at this particular point, it's a totally different matter. It would be an employee matter. Why did you not tell the AG?

Mr. Baker. With all due respect, I don't agree that it was a completely separate matter. So I would have thought --

Mr. Meadows. Okay. So saying it's the same matter, why would you not tell the AG, because he was recused?

Mr. Baker. I would not have told the AG because he was recused on this particular matter.

Mr. Meadows. So did Andy tell Rod that it was a bad idea?

Mr. Baker. I don't know what Andy told him.

Mr. Meadows. What do the memos say?

Mr. Baker. I haven't read the memos.

Mr. Meadows. You have them in your possession, is what you told us, I believe, the McCabe memo?

Mr. Baker. Not McCabe's memos.

Mr. Meadows. But you talked to him about those?

Mr. Baker. I knew that he was doing memos.

Mr. Meadows. Well, I think the other day you said that you talked to him about the memos.

Mr. Baker. Yes. I knew that he had prepared memos of his interaction --

Mr. Meadows. So he didn't talk about the content of it?

Mr. Baker. So he -- well, he told me contemporaneously about what was going on, but he didn't read the memos to me; he didn't ask me to look at them.

Mr. Meadows. That's not the question I asked.

Mr. Baker. I don't know exactly what's in them.

Mr. Meadows. Do you know in general what are in the McCabe memos?

Mr. Baker. I do not.

Mr. Meadows. Does Rod have the memos?

Mr. Baker. Who?

Mr. Meadows. Rod Rosenstein.

Mr. Baker. I don't know. That's a good question. I don't know the answer to it.

[1:17 p.m.]

Mr. Meadows. So we have these memos. Who all has them?

Mr. Baker. I don't know.

Mr. Meadows. Does Lisa Page have them?

Mr. Baker. Currently? I --

Mr. Meadows. Did she have them?

Mr. Baker. I would think yes, but I don't know the answer to that question.

Mr. Meadows. All right. So multiple people at the FBI knew that there was this conversation about invoking the 25th and taping the President of the United States, and you didn't tell the Attorney General?

Mr. Baker. Correct, to my knowledge. I did not.

Mr. Meadows. All right. I'll yield back.

Mr. Jordan. Thank you, Mark.

Mr. Baker, I want to go back to Michael Sussmann. We have your calendar here, some dates, Monday --

Mr. Baker. Excuse me, sir. I don't think your mic's on.

Mr. Jordan. Monday, September 19, you met with -- 2016 -- you met with Michael Sussmann. I think last time we were together you said he reached out to you. Is that right?

Mr. Baker. That's my -- so we're talking about the September 19 thing?

Mr. Jordan. Yes.

Mr. Baker. Yes. That's my recollection, that he reached out to

me.

Mr. Jordan. Okay. Did Mr. Sussmann talk with anyone else at the FBI, to your knowledge?

Mr. Baker. About this particular matter or the matter that I talked about last time? What do you mean?

Mr. Jordan. Anything -- I know what you talked about last time. Anything relative to Russia? Any -- or, frankly, did Michael Sussmann, during this timeframe, talk to anyone else?

Mr. Baker. Not about this issue.

I just want to clarify that Michael Sussmann had been -- has had numerous interactions with the FBI over a period of time because he represents a number of different clients that interact with the FBI. So I have talked to Sussmann about, you know -- his clients have sued us and otherwise interacted with us. So the FBI has had many interactions with Sussmann --

Mr. Jordan. About this subject matter.

Mr. Baker. With respect to this?

Mr. Jordan. Yeah.

Mr. Baker. To my knowledge, I don't think he talked to anybody else in the FBI other than me.

Mr. Jordan. Okay. So didn't talk to Mr. Comey?

Mr. Baker. I don't believe so, no.

Mr. Jordan. Mr. McCabe?

Mr. Baker. Not to my knowledge.

Mr. Jordan. All right. How did Mr. Sussmann get the

information that he gave you, do you know?

Mr. Baker. To the best of my recollection, he told me that it had been obtained by some type of cyber experts, and I don't know who -- how they started their inquiry into this. But that is what he told me, that some certain cyber experts had obtained information about some anomalous looking thing having, to my knowledge, nothing to do with the dossier. But anyway --

Mr. Jordan. Did he mention -- did Fusion GPS play a role in him getting information that he subsequently gave to you?

Mr. Baker. I don't remember him mentioning Fusion GPS in connection with this material.

Mr. Jordan. Did he mention at all when he was talking to you?

Mr. Baker. Not to my recollection, no.

Mr. Jordan. What about Glenn Simpson?

Mr. Baker. Not on this thing, no.

Mr. Jordan. How about Christopher Steele?

Mr. Baker. No.

Mr. Jordan. Okay. Did you meet with anyone else at Perkins Coie relative to this issue, Russia investigation issue?

Mr. Baker. I believe that Sussmann came in by himself, so I think the answer is no.

Mr. Jordan. Didn't talk to Marc Elias?

Mr. Baker. Who?

Mr. Jordan. Mr. Elias.

Mr. Baker. No.

Mr. Jordan. All right. Was Mr. Sussmann's information used -- the information he gave you, was it used to support the FISA?

Mr. Baker. Not to my knowledge, no.

Mr. Jordan. Okay. Did you know -- did you know that Mr. Sussmann was also communicating with reporters?

Mr. Baker. At some point in time, either in that initial conversation or perhaps a subsequent one, I think I said last time he told me that the press had some or all of this information.

Mr. Jordan. Did he say who in the press?

Mr. Baker. Eventually he did tell us, yes.

Mr. Jordan. And when did he tell you that?

Mr. Baker. I'm sorry?

Mr. Jordan. When did he tell you that?

Mr. Baker. That was in a subsequent, I think -- I think it was a phone call, a subsequent phone call that I had with him, because we asked him -- we -- I asked him on behalf of the Bureau, after having discussed it internally, who it was at the press that -- that we could talk to about this, because we wanted them to not publish right away.

Mr. Jordan. And subsequently, was it the next day? Was it still in September? When was it?

Mr. Baker. I think it was like maybe a week -- sorry. A week or two later.

Mr. Jordan. Okay. I want to -- and I thought I had some copies here.

I want to have you look at a handout. It's footnote 43. Where

did I -- oh, right here they are.

This is a footnote from the House Intelligence Committee's report. I just want to walk you through it.

Mr. Baker. Could I get one?

Thank you.

Mr. Jordan. I'm looking at footnote 43.

Mr. Baker. Okay. I've read through it.

Mr. Jordan. Okay. So in September 2016, redacted, shared similar information, whatever's above the large block of redacted information -- shared similar information in a one-on-one meeting with FBI General Counsel James Baker.

Is the redacted name there, is that Mr. Sussmann?

Mr. Baker. I don't know what's behind the redactions. I'm sorry.

Oh, in this? I would -- I'm sorry. In that September 2016?

Mr. Jordan. Yeah.

Mr. Baker. Yeah. I was talking about all the blackout above that.

Mr. Jordan. Yeah. No, I'm not asking about that.

Mr. Baker. I would guess, from -- my assumption is, from the context, that that's Sussmann.

Mr. Jordan. Yeah. That's what I think too.

And then as conveyed in an executive session December 18 of, blank, around the same time as the meeting with the FBI, blank shared the information with journalists, including a name at Slate Magazine.

Follow all that? And, again, this is -- the redaction is Mr. Sussmann -- the two smaller redactions.

Mr. Baker. It seems like that, yes.

Mr. Jordan. Okay. First of all, why was it redacted? Did you -- the FBI do this?

Mr. Baker. You have to ask the Bureau. I don't know. I didn't participate in that process, to my recollection.

Mr. Jordan. Yeah, I don't know why that would be redacted.

Okay. And then it says Slate, who published at a Trump service communication with Russia, published an article that was titled, Was a Trump Service Communicating with Russia, on Slate Magazine October 31st, 2016.

I'm just curious, did you happen to read that article?

Mr. Baker. No, I did not.

Mr. Jordan. Okay. Do you know anything about what the article said? Have you read it since then?

Mr. Baker. I have not read the Slate article, no.

Mr. Jordan. It talks about some bank in Russia, Alfa-Bank, communicating with some Trump financial institutions in the server there.

None of that kind of conversation was related to you by Mr. Sussmann when you met?

Mr. Baker. Oh, yes. I mean, that is what he told me about. Yeah, absolutely.

Mr. Jordan. Okay. So -- well, tell me more about that.

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Mr. Baker. I didn't read the Slate article, but Sussmann told me that that's, in essence, what this was all about.

Mr. Jordan. Okay. We'll go into more detail about that, because I think the last time we talked, you just said it was something about some hacking. We didn't get into what it was hacking about.

So what did Mr. Sussmann tell you?

Mr. Baker. So now I'm nervous that maybe the last time the FBI interposed an objection, so --

Mr. [REDACTED] May we consult very quickly?

I know you're on a tight clock.

Mr. Jordan. Yep.

[Discussion off the record.]

Mr. Baker. So if the question is what did Sussmann tell me?

Mr. Jordan. Yeah.

Mr. Baker. Okay. And given the guidance I just got from the FBI, so I'll answer this at a somewhat high level.

So he was describing a -- what appeared to be a surreptitious channel of communications -- communication between some part of President Trump's, I'll say organization but it could be his businesses. I don't mean like The Trump Organization, per se. I mean his enterprises with which he was associated. Some part of that and a -- an organization associated with -- a Russian organization associated with the Russian Government -- a private organization associated with the Russian --

Mr. Jordan. Private organization in Russia associated with the

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government had some kind of electronic communication with some organization, some business associated with the Trump family or the Trump organization?

Mr. Baker. Yes, sir. And there was some effort -- there was some belief that this was a -- being conducted in a way so as to make it a covert communications channel.

Mr. Jordan. Okay. And my first question would be how'd you get this? Did you ask that question?

Mr. Baker. I did ask that question at a high level, yes. And he explained that he had obtained it from, again, cyber experts who had -- who had obtained the information, and he said that the details of it would explain themselves. That's my recollection.

Mr. Jordan. And was he representing a client when he brought this information to you? Or just out of the goodness of his heart, someone gave it to him and he brought it to you?

Mr. Baker. In that first interaction, I don't remember him specifically saying that he was acting on behalf of a particular client.

Mr. Jordan. Did you know at the time that he was representing the DNC in the Clinton campaign?

Mr. Baker. I can't remember. I have learned that at some point. I don't -- as I think I said last time, I don't specifically remember when I learned that. So I don't know that I had that in my head when he showed up in my office. I just can't remember.

Mr. Jordan. Did you learn that shortly thereafter if you didn't know it at the time?

Mr. Baker. I wish I could give you a better answer. I just don't remember.

Mr. Jordan. I mean, I just find that unbelievable that the guy representing the Clinton campaign, the Democrat National Committee, shows up with information that says we got this, and you don't ask where he got it, you didn't know how he got it. But he got it from some, you know, quote, expert.

Mr. Baker. Well, if I could respond to that.

Mr. Jordan. Sure.

Mr. Baker. I mean, so I was uncomfortable with being in the position of having too much factual information conveyed to me, because I'm not an agent. And so I wanted to get this -- get the information into the hands of the agents as quickly as possible and let them deal with it. If they wanted to go interview Sussmann and ask him all those kind of questions, fine with me.

Mr. Jordan. Did that happen?

Mr. Baker. I don't know that. But I -- I mean, I -- well, A, I did hand it off to the -- to the investigators.

Mr. Jordan. I think you told us you handed it off to Mr. Strzok and Mr. Priestap?

Mr. Baker. My recollection is Mr. Priestap.

Mr. Jordan. Okay. And you don't know if they followed up or not?

Mr. Baker. Bill Priestap told me that they did follow up extensively.

Mr. Jordan. And back to a question I asked earlier. This was

not part of the FISA that was taken to court on the FISA ap for Carter Page?

Mr. Baker. To the best of my recollection, it was not part of that.

Mr. Jordan. It was not. Okay.

Mr. Ratcliffe wants to get in here, so I'm going to jump around here a little bit now.

Did any -- did Franklin Foer, the guy who wrote this article, did he ever reach out to you?

Mr. Levin. I'm not going to have him answer any questions as asking about any interactions with the press.

Mr. Jordan. I'm not talking about whether he reached out to reporters. I'm asking did reporters reach out to you? So it's coming this direction.

Mr. Levin. I understand. I'm not going to have him talk about any conversations with reporters.

Mr. Jordan. Well, I think we -- last time we talked about Mr. Corn pretty in-depth.

Mr. Levin. I don't believe we --

Mr. Jordan. Yes, we did.

Mr. Levin. We talked about him bringing some information in, but I don't believe we -- anyway, that's -- I'm not going to let him answer the questions about whether he had conversations with reporters.

Mr. Jordan. Are you going to give me the same answer when I ask did Mr. Isikoff ever reach out to you?

Mr. Levin. Yes. Same instruction to him.

Mr. Jordan. Okay. All right.

So let's go to a couple text messages so Mr. Ratcliffe can take over.

Can we get him the same one where -- you had it earlier where it says, and we need to open this case while Andy is acting?

You got it?

Go to the bottom of that page.

Mr. Baker. So just to be clear, we're on page 32 here?

Mr. Jordan. Yep.

Mr. Baker. Okay.

Mr. Jordan. Go to the bottom.

We need to lock in blank in a formal charge of a way soon.

Who's the blank?

Mr. [REDACTED] What's the date of that?

Mr. Levin. The date is 5/10/2017.

Mr. Baker. We need to lock in blank in a formal charge of a way soon.

I can't figure that one out.

Mr. Jordan. Pardon?

Mr. Baker. I can't figure that one out. I don't know what's behind the blank.

Mr. Jordan. Okay. Thank you.

Let's go to the other one. This one is page 56.

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Do we have that one for --

Mr. Levin. No, we don't have that yet.

Mr. Jordan. Text messages 56. This is -- can you make copies of that real quick? I want to move on to another question while we're waiting.

There was -- the Office of the Inspector General just released a report recently, maybe even 2 days ago, findings of misconduct by FBI official for accepting gifts from members of the media and for lack of candor.

Are you familiar with what the Inspector General --

Mr. Baker. No, I haven't seen that one yet.

Mr. Jordan. Have you got copies of this? You got a copy of that? All right. Give him one of those. Let me have one back. Thank you.

All right. We'll go back to this one. While we're doing that, can you make copies of this? I thought we had this.

So let's go back to the text messages between Page and Strzok. This is the now somewhat famous insurance policy text message. It should be page 56, if you got it in front of you.

Mr. Baker. Fifty-six? I've got 56.

Mr. Jordan. Middle of the page. I want to believe the path you threw out for consideration in Andy's office, there's no way he gets elected, but I'm afraid we can't take that risk. It's like an insurance policy in the unlikely event you die before you're 40.

Were you in that meeting?

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Mr. Baker. To the best of my recollection, no. I don't remember a conversation about an insurance policy.

Mr. Jordan. Okay. Do you have any idea what they mean when they say "it's like an insurance policy"? What does that refer to?

Mr. Baker. You know, I can't remember if Mr. Strzok was questioned about this and testified and said something about it. To be frank, sitting here today, I just don't understand what it means.

Mr. Jordan. Okay. All right. I want to come back to that as soon as we make copies, but let me ask you a few other things here.

Did you have contact with anyone at the State Department about the subject matter we've been -- about the Trump-Russia investigation or dossier or anything related to that? Any folks at the State Department?

Mr. Baker. Not -- not to my recollection, no.

Mr. Jordan. Victoria Nuland?

Mr. Baker. I don't recall interacting with her on this, no.

Mr. Jordan. Liz Dibble?

Mr. Baker. No.

Mr. Jordan. Okay.

Mr. Baker. Not that I recall.

Mr. Jordan. Anyone from the Clinton campaign ever talk to you about this issue?

Mr. Baker. About Russia?

Mr. Jordan. Yeah.

Mr. Baker. Not to my recollection, no.

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Mr. Jordan. Sidney Blumenthal ever talk to you? Ever have --

Mr. Baker. No.

Mr. Jordan. -- any conversation with him?

Mr. Baker. Not to my recollection. I don't think I've ever met him.

Mr. Jordan. Okay. And then, Mr. Ratcliffe, while I'm waiting for -- did you ever travel to London or to the U.K.?

Mr. Baker. In my life, yes.

Mr. Jordan. No, I'm talking about this time.

Mr. Baker. No, not in connection with any investigative matter pertaining to Russia.

Mr. Jordan. Okay. How about Mr. -- relative to this subject, did you ever talk to Mr. Brennan?

Mr. Baker. About this particular investigation?

Mr. Jordan. Yeah.

Mr. Baker. I don't recall that I personally spoke to him about that, no.

Mr. Jordan. Mr. Clapper?

Mr. Baker. Not me personally, no.

Mr. Jordan. And how about General Rogers -- or Admiral Rogers? Excuse me.

Mr. Baker. About Russia? I don't think we ever discussed Russia. I've had -- the reason I'm hesitating, I've had conversations with Admiral Rogers. I don't recall ever discussing that with him.

Mr. Jordan. How about Susan Rice?

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Mr. Baker. No, not to my recollection.

Mr. Jordan. Okay. So I just want to take a quick look at this, and then Mr. Ratcliffe will have the remainder of our time.

This is from the Inspector General just a couple days ago, October 16. I just want know if you know who this is.

Mr. Baker. I beg your pardon?

Mr. Jordan. I just want to know if you know who it -- who is he referring to? Who's the FBI official who took tickets and then wasn't square with the investigators and took tickets from people in the press?

Mr. Baker. I would -- I would have to guess at who it is, and I don't know if I should do that. I don't know what the Bureau's policy is on disclosing that since it appears that the IG did not do that. And I'm worried about it would be a violation of the Privacy Act.

Mr. Jordan. Okay. All right.

Thank you very much, Mr. Baker. I appreciate it.

Mr. Baker. Thank you.

Mr. Ratcliffe. Mr. Baker, I want to start out by making sure the record is clear about the conversation that we had earlier.

I asked you this morning, when did the counterintelligence probe into the Trump-Russia matter become a criminal investigation, and I thought I heard you say "from the beginning." Is that right?

Mr. Baker. I think that's what I said. I don't remember the record -- we have the record, but --

Mr. Ratcliffe. It's not a trick question. I'm trying to -- I want to make sure I understand, because I think we see this differently.

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But as I understood your explanation, was post 9/11, when the wall came down between law enforcement and intelligence, that every counterintelligence probe is simultaneously a criminal investigation.

Is that a fair summary of what you testified to?

Mr. Baker. That the FBI always has all of its authorities in dealing with a counterintelligence matter. And so to my mind, the FBI walks in with all of its options on the table. And it can pursue things in a strictly, you know, foreign intelligence channel, interacting with other intelligence agencies and things like that and never have anything to do with, you know, a grand jury subpoena or putting anybody in a courtroom or anything like that, or an indictment.

But at the same time, if the facts and circumstances warrant going -- using criminal tools, including up to and including prosecution, then the FBI can do that. And so I think it's just misleading to think of a counterintelligence investigation as not also being, in part, at least potentially a criminal investigation.

Mr. Ratcliffe. And to that point, I was trying to find out at what point this counterintelligence probe crossed over into a criminal investigation, and that's where you and I disagree, that there is such a point in time, correct?

Mr. Baker. I think we disagree, yeah.

Mr. Ratcliffe. Okay. So --

Mr. Baker. Or at least we're not -- I don't know exactly what, but, yes, I think --

Mr. Ratcliffe. So did Director Comey, do you know, did he share

your opinion during his tenure that counterintelligence probes were simultaneously criminal investigations?

Mr. Baker. I --

Mr. Ratcliffe. If you know.

Mr. Baker. I don't know. You'd have to ask him.

Mr. Ratcliffe. Do you know if he shared that in connection with this particular counterintelligence probe into Russia?

Mr. Baker. Well, let me back up. I think, obviously, Director Comey understands very well how to conduct a counterintelligence investigation. And so -- and I think he knew full well that the criminal tools were always available to him as Director, and so he could -- if the facts warranted, we could go down the criminal route, get a criminal search warrant, get a grand jury subpoena, indict someone, and so on, from the same investigative origin.

Mr. Ratcliffe. Okay. So in 2016, obviously we know -- we've talked about the Comey memos. And in those memos and in subsequent public statements and in testimony, Director Comey has said that he told President Trump that President Trump was not under investigation during that point in time, correct?

Mr. Baker. That's what I understand, yes.

Mr. Ratcliffe. Okay. Well, you've seen the memos.

Mr. Baker. Yes. To the extent he talked about it in the memos. And I know he's also testified about this publicly, yes.

Mr. Ratcliffe. Right. So do you know if at any point in time, did Jim Comey as FBI Director ever tell President Trump that President

Trump was under criminal investigation?

Mr. Baker. I think -- my understanding and belief is that he never told -- that he told the President the opposite.

Mr. Ratcliffe. He told the President the opposite. Okay. So I'm trying to still figure out how the firing of Jim Comey, while upsetting or crazy, in your mind, was in any way possibly unlawful.

Answer this question for me. How could President Trump obstruct a criminal investigation into his actions if he doesn't know there's a criminal investigation into his actions?

Mr. Baker. So, first of all, I'm not sure I used the word -- I don't think I personally used the word "crazy" with respect to the firing. I think -- I think I said I was upset, but I don't believe I characterized the President's action as crazy, so just for the record.

Mr. Ratcliffe. Okay.

Mr. Baker. Theoretically, how could it happen? Theoretically -- let's just be very clear, I'm speaking theoretically. If the President of the United States fired Jim Comey at the behest of the Russian Government, that would be unlawful and unconstitutional.

Mr. Ratcliffe. Is that what happened here?

Mr. Baker. I don't know.

Mr. [REDACTED] I instruct the witness not to answer a question like that.

Mr. Baker. Okay, sorry.

Mr. [REDACTED] Thank you.

Mr. Ratcliffe. Okay. So let's set that aside as a possibility.

That doesn't say that you don't agree with me that President Trump could not have or did not fire Jim Comey for the purpose of obstructing justice into an investigation of President Trump.

Mr. Baker. I'm sorry. I lost the thread of your question. I'm confused.

Mr. Ratcliffe. So setting aside the possibility that you just gave us, that the reason was that the Russian Government told Donald Trump to fire Jim Comey, you still agree with me, based on the fact that President Trump didn't know that he was under criminal investigation, because he was never told, that President Trump could not have fired Jim Comey for the purpose of obstructing an investigation into the actions of President Trump.

Mr. Baker. So it's unclear to me what the -- so -- I'm not sure I can answer that question easily, because it depends -- so now I'm going to -- I'm worried about going into what the FBI would be concerned about.

It depends on the President's state of mind whether the Director told him something or not.

Mr. Ratcliffe. But we've already -- you're not aware of any -- that the President was told that he was under investigation. In fact, just the opposite happened. So what I'm just trying to do is narrow it down.

The President could not have fired Jim Comey because he was trying to obstruct an investigation into the actions of President Trump.

Mr. Baker. But he could have tried to obstruct the investigation

with respect to others.

Mr. Ratcliffe. Say it again.

Mr. Baker. He could have tried to obstruct the investigation with respect to others, even if he thought -- even if he thought, which I don't know -- what he thought in his mind.

Mr. Ratcliffe. And I accept that premise as a premise. But what I'm trying to do is eliminate possibilities. And one of those is that, is there any basis that you're aware of as the FBI general counsel at the time for the notion that President Trump, because he wasn't aware of any criminal investigation into his actions, could have possibly obstructed justice by firing Jim Comey for an investigation into his actions that he wasn't aware of?

Mr. Baker. And I'm answering, yes, I think he certainly could have obstructed justice by interfering with an investigation --

Mr. Ratcliffe. No, no, no. Into -- you said into the actions of others. I'm talking about President Trump's actions.

Mr. Baker. I guess we're talking past each other. I'm not sure I fully understand what you're driving at.

Mr. Ratcliffe. Well, what I'm driving at is it's one thing to say that the President tried to obstruct justice into the actions of Michael Flynn or Paul Manafort or some other person. That's different than obstructing justice into an investigation of President Trump's actions. And Jim Comey has expressly told President Trump that he's not under investigation for his actions, correct?

Mr. Baker. But if the President -- yes, that's correct, to

answer your question directly.

But if the President had in his state of mind -- if he was -- if he had guilty knowledge, even if the FBI didn't have it, and he was attempting to thwart the investigation before it got to him, then I think that would also be -- I think that would be obstruction. The President at the time --

Mr. Ratcliffe. Do you believe that happened?

Mr. Baker. I don't know. I'm not -- I'm not part of the investigation anymore. I don't know what the investigators have determined.

Mr. Ratcliffe. Well, did Jim Comey ever indicate that that was something that was going on? Because it's not reflected in his memos and it's not been reflected in his public testimony.

Mr. Baker. But Jim Comey didn't write things about that at the FBI after he was fired, obviously.

Mr. Ratcliffe. Okay. So your notion is that President Trump may have obstructed justice possibly because of the actions of others.

Are there any limitations on a President's pardon authority?

Mr. Baker. Well, the contours of the President's pardon authority, I think, are not completely clear. So the question, for example, can the President pardon himself?

Mr. Ratcliffe. But we're talking about others.

I'm trying to figure out why President Trump would obstruct justice into an investigation of Michael Flynn or Paul Manafort or anyone else if he had the ability to pardon those folks, which I believe

is an absolute authority under the Constitution.

Mr. Baker. So I think the answer is not completely clear with respect to the contours of that. And I would say that if the President's action in pardoning someone was otherwise contrary to his other obligations under the Constitution, I think that would raise serious constitutional concerns.

Mr. Ratcliffe. Okay. So going back to your original premise between -- or as to how President Trump could have obstructed justice. You gave as an explanation, if the Russian Government instructed him or he did it at their behest.

Mr. Baker. That was a hypothetical and theoretical thing.

Mr. Ratcliffe. Okay. I want to ask -- so was there a discussion about that with Director Comey?

Mr. Baker. I'm just looking at the FBI.

Can I go into this?

Mr. Ratcliffe. Don't cue the FBI, Counsel.

Mr. Baker. I don't want to get myself into trouble with them in terms of --

Mr. [REDACTED] If we may, I think it's best we consult, especially in an unclassified setting. We will be brief.

[Discussion off the record.]

Mr. Baker. So I'm going to try to answer your questions yes or no here, just to be careful. And then we'll just sort of go one question at a time, if that's okay.

Mr. Ratcliffe. Well, so --

Mr. Baker. That's my instruction.

Mr. Ratcliffe. All right.

What was the question?

I think it was did you have a discussion with Director Comey about the possibility that the Russian Government may have ordered his firing.

Mr. [REDACTED] The hypothetical, theoretical, as he's characterized it.

Mr. Baker. So that particular question, to the best of my recollection, no, I did not discuss that with Director Comey.

Mr. Ratcliffe. Okay. Did you discuss it with anyone?

Mr. Baker. To the best of my recollection, yes.

Mr. Ratcliffe. Who did you discuss it with?

Mr. Baker. We discussed, so to the best of my recollection, with the same people I described earlier: Mr. McCabe, possibly Mr. Gattis, Mr. Priestap, possibly Lisa Page, possibly Pete Strzok. I don't remember that specifically.

Mr. Ratcliffe. So there was -- there was a discussion between those folks, possibly all of the folks that you've identified, about whether or not President Trump had been ordered to fire Jim Comey by the Russian Government?

Mr. Baker. I wouldn't say ordered. I guess I would say the words I sort of used earlier, acting at the behest of and somehow following directions, somehow executing their will, whether -- and so literally an order or not, I don't know. But --

Mr. Ratcliffe. And so --

Mr. Baker. As a -- it was discussed as a theoretical possibility.

Mr. Ratcliffe. When was it discussed?

Mr. Baker. After the firing, like in the aftermath of the firing.

Mr. Ratcliffe. All right. And it sounds like a fairly large group. Was there more than one discussion about that?

Mr. Baker. So I would not categorize it as a large group. I would categorize it as a small group, in my opinion.

Mr. Ratcliffe. A small group of five or six people that you've identified?

Mr. Baker. Yes.

Mr. Ratcliffe. Okay. And what do you recall about that conversation, the dialogue between the five or six of you that were in that --

Mr. Baker. So the basic idea was that we were trying to under -- throughout the whole investigation, we were trying to understand what was going on here. And at -- that was one extreme. The other extreme is that the President is completely innocent, and we discussed that too. And so -- and then you have things in the middle. And so -- so that was how it came up. There's a range of things this could possibly be. We need to investigate, because we don't know whether, you know, the worst-case scenario is possibly true or the President is totally innocent and we need to get this thing over with -- and so he can move forward with his agenda.

Mr. Ratcliffe. Were you aware during that conversation at that point in time of the level of bias that folks like Peter Strzok and Lisa Page and Andy McCabe and others may have had or did have against Donald Trump?

Mr. Baker. So I don't know how to respond to the bias question. I did not -- I was unaware of the text messages at that time that were going back and forth between Lisa and the nature of those types of conversations.

Mr. Ratcliffe. Okay.

Mr. Baker. That was unknown to me at the time.

Mr. Ratcliffe. You were unaware of those. Do you agree that those text messages reflect an inappropriate level of bias?

Mr. Baker. All I can tell you is that when you use the word "inappropriate" as folks have done, I did not see, in their official actions, evidence of bias in their official actions.

Mr. Ratcliffe. Well, that doesn't really answer the question, though, do you think it was appropriate.

Let me move on, because my time is very limited. And I've got to ask you about this because we need to shift gears with respect to Bruce Ohr.

You were aware of Bruce Ohr's involvement in the Trump-Russia investigation?

Mr. Baker. I had some knowledge of that, yes. I was -- yes.

Mr. Ratcliffe. Do you know if Sally Yates was aware of his involvement?

Mr. Baker. Bruce Ohr's involvement?

Mr. Ratcliffe. Yes.

Mr. Baker. I don't know.

Mr. Ratcliffe. I'm trying to understand how the number four -- or a number four, as he's been described at the Department of Justice, was part of the chain of custody in evidence supporting a FISA application.

Mr. Baker. Is it Bruce Ohr?

Mr. Ratcliffe. Bruce Ohr, yeah. Were you aware of the operational role that he was playing with respect to Christopher Steele?

Mr. Baker. I had -- I can't recall the specifics of that. I heard that -- I heard, on a couple of occasions, at least, that Bruce Ohr played some role with respect to Steele and had a relationship, or something like that. And I don't remember the specifics about how exactly that played out. I had some consciousness of it at the time.

Mr. Ratcliffe. Well, even after the fact, were you trying to determine or did you play a role in trying to determine whether or not it was appropriate for the number four person at the Department of Justice to be involved in the creation of a piece of evidence that became the central piece of evidence the Department of Justice was using?

Mr. Baker. I never heard that he was involved in the creation of that. Ohr was.

Mr. Ratcliffe. Do you agree that he was involved in the chain of custody of that evidence?

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Mr. Baker. I'm not sure. I'm not sure. I don't know exactly how --

Mr. Ratcliffe. Well, are you aware that Christopher Steele or Nellie Ohr or Glenn Simpson gave him information that was shared with the FBI?

Mr. Baker. Gave Bruce Ohr information?

Mr. Ratcliffe. Yes.

Mr. Baker. I had some level of understanding of interactions between Steele and Ohr and the FBI. The precise details of that, I don't know. I don't remember.

Mr. Ratcliffe. You agree with me he should have had some authority from someone within the Department of Justice to be engaged in that type of activity?

Mr. Baker. I would have thought that he would have informed his boss at least. I'm not sure who that was at the time, but -- unless the FBI instructed him not to. I just don't know the details of that.

Mr. Ratcliffe. Is it appropriate, under FBI protocols, to work with sources that have been terminated by the FBI?

Mr. Baker. It's a bit of a tricky question, I think, to answer because sources keep coming back. When they've been terminated, they don't always like that and still want to try to provide information to the FBI. And so they go back to their handlers from time to time. And so sometimes disengaging with those folks can be challenging.

Mr. Ratcliffe. Okay. But I want to get into specifics here. Christopher Steele. You were involved in the FISA application

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with respect to Carter Page.

Mr. Baker. Yes.

Mr. Ratcliffe. And you know, then, that Christopher Steele was terminated because of his engagement with the media.

Mr. Baker. To the best of my recollection, that's right.

Mr. Ratcliffe. So in that specific circumstance, would it have been appropriate to use a terminated source to continue for the -- let me strike that.

Would it, in that circumstance, be appropriate for Bruce Ohr to be working with a terminated source?

Mr. Baker. Well, Bruce Ohr, at that point in time, would not be part of the -- he was not part of the FBI. So I -- I don't know what the department's rules would have been on that vis-à-vis him.

Mr. Ratcliffe. Okay. When did you become aware that the wife of the number four person at the Department of Justice was helping in the creation of the Steele dossier?

Mr. Baker. The Nellie Ohr involvement?

Mr. Ratcliffe. Yes.

Mr. Baker. To the best of my recollection, I think I learned about that through public reporting.

Mr. Ratcliffe. At what point in time?

Mr. Baker. I don't remember.

Mr. Ratcliffe. All right.

Mr. Baker. Late -- later on. Much later on in the investigation.

Mr. Ratcliffe. All right. Would you agree with me that that's a material fact, that the wife of the number four person at the Department of Justice is involved in the creation of the central piece of evidence in the FISA application?

Mr. Baker. I would -- to be able to answer that, I'd have to know more about what she did and exactly what role she played.

As I said earlier, we have an obligation to report all the material facts to the court. I don't disagree with that for a second. But me rendering some judgment on this interaction, I don't know enough about what she did, so I would -- I don't know how to answer that question.

Mr. Ratcliffe. Well, Mr. Baker, with all due respect, you and I both worked at the Department of Justice at different points in time. Do you think it's appropriate for folks to be aware that the number four person at the Department of Justice is involved in the chain of custody and his wife is involved in any capacity in creating a piece of evidence and those facts are not disclosed to the Foreign Intelligence Surveillance Court?

Mr. Baker. So if what you say is true, and I don't know it to be true, then it seems as though the institution of the Department of Justice should provide that to the FISA court. The difficulty is do the people who are actually going to the FISA court know these details, right? That's the problem. You have an -- in this case, an FBI agent who literally will be signing the application attesting to the accuracy of the information. You have particular attorneys reviewing it, a particular structure up to and including the Director and so on. If

those people don't know about it, then -- then I'm not sure that they -- you know, I would say they didn't do anything wrong.

But the institution of the Department of Justice had a breakdown somewhere, and information that, again, assuming what you say is true, should have been, you know, at least discussed about whether it should go on the FISA application.

Mr. Ratcliffe. So I agree with that with respect to -- but none of that excuses the misconduct. It just raises a question about who didn't disclose the material facts that should have been to the court. Obviously you can't disclose what you're not aware of, right?

Mr. Baker. Right.

Mr. Ratcliffe. But you agree with me, generally speaking, that if the number four person at the Department of Justice and his wife both play roles with respect to the creation of a piece of evidence, that the Foreign Intelligence Surveillance Court should have been apprised of that fact.

Mr. Baker. If they played a role in the creation of it, and that's how it came to the Bureau, then that seems like something that at least -- again, I would like to know more details about it, but it seems like something that should have been evaluated about whether it should go into the FISA application or not. I would have -- what you say concerns me and I would like to know more about it.

Mr. Ratcliffe. Okay. You told the Inspector General that the conduct of Hillary Clinton and her associates was appalling with respect to the handling of classified information, correct?

Mr. Baker. I believe that's correct.

Mr. Ratcliffe. Okay. And do you still believe that?

Mr. Baker. Yes.

Mr. Ratcliffe. All right. And I have reason to believe that you originally believed it was appropriate to charge Hillary Clinton with regard to violations of law -- various laws with regard to the mishandling of classified information. Is that accurate?

Mr. [REDACTED] You may answer.

Mr. Baker. Yes.

Mr. Ratcliffe. All right. Are you a reasonable prosecutor?

Mr. Baker. Not anymore. I'm not a prosecutor anymore.

Mr. Ratcliffe. Were you a reasonable prosecutor?

Mr. Baker. I think so.

Mr. Ratcliffe. And you came to that conclusion?

Mr. Baker. So I had that belief initially after reviewing, you know, a large binder of her emails that had classified information in them. And I discussed it internally with a number of different folks and eventually became persuaded that charging her was not appropriate because we could not establish beyond a reasonable doubt that -- we, the government, could not establish beyond a reasonable doubt that she had the intent necessary to violate --

Mr. Ratcliffe. And I understood that, that you had to be persuaded, and stated as a basis that ultimately you were persuaded there was a lack of evidence establishing knowledge or criminal intent, correct?

Mr. Baker. Yes.

Mr. Ratcliffe. Okay. When were you persuaded?

Mr. Baker. Sorry. Pretty late in the process, because we were arguing about it, I think, up until the end.

Mr. Ratcliffe. Yeah. So Jim Comey had reached the opposite conclusion as early as -- or I guess as late as May the 2nd of 2017, as reflected in the memo that he created, correct?

Mr. Baker. Well, I know there's been a lot of public discussion about that. The way I experienced that interaction and other interactions with Jim Comey is he would throw things out like that to get people to start talking and thinking about it and test his conclusions against others and get them to push back. And so it was -- I believe it was in that process that I read these emails and we had these discussions and arguments.

So I -- if I had been -- I believe if I had been persuaded that she had the intent, I would have argued that vociferously with him and maybe changed his view. And I think he would have been receptive to changing his view even after he wrote that thing.

Mr. Ratcliffe. So, again, so the record's clear, as the -- as the FBI general counsel, you originally believed it was appropriate to charge Hillary Clinton with violation of the law for mishandling classified information?

Mr. Baker. My original belief after -- well, after having conducted the investigation and towards the end of it, then sitting down and reading a binder of her materials, I thought that it was

alarming, appalling, whatever words I said, and argued with others about why they thought she shouldn't be charged.

Mr. Breitenbach. Under what legal standard were you basing your opinion that she should have been charged?

Mr. Baker. Well, it was the statutes that we were considering at the time. I'd have to sit down and relook at them again. But it was the -- it was the nature and scope of the classified information that, to me, initially, when I looked at it, I thought these folks should know that this stuff is classified, that it was alarming what they were talking about, especially some of the most highly classified stuff.

Mr. Breitenbach. So that sounds like a knowledge standard rather than an intent standard.

Mr. Baker. Well, knowledge, intent. I mean, I think those things are hard to distinguish and --

Mr. Breitenbach. They're actually -- I just want to point out they are distinguished --

Mr. Baker. I know they're distinguished in the statute.

Mr. Breitenbach. -- specifically in the statute. You have -- are you aware of that already, that they are distinguishable?

Mr. Baker. I haven't looked at the statute, but I know -- I mean, obviously you're looking at a statutory standard in trying to figure out how to apply it. I was struggling with the facts about even just ascertaining what literally did she know and what was reasonable to infer about what she knew.

Mr. Ratcliffe. So I appreciate that. We're limited on time,

so -- but if what ultimately persuaded you and what you really had to look at was knowledge or the lack of evidence establishing knowledge or criminal intent, wouldn't the best evidence of that been not a binder of emails but, instead, Hillary Clinton's own testimony?

Mr. Baker. Well, maybe not. I don't know. It depends. I mean, her testimony could be false, right? I mean, theoretically.

Mr. Ratcliffe. Well --

Mr. Baker. I'm not saying it was, but I'm saying once you start --

Mr. Ratcliffe. This debate was taking place before and -- Mr. Comey wrote this memo months before Hillary Clinton was ever interviewed by the FBI.

Mr. Baker. That's correct.

Mr. Ratcliffe. So months before the FBI ever asked the subject of this investigation about her knowledge or her intent, the FBI Director had written a memo saying that no reasonable prosecutor would bring these charges.

Mr. Baker. To the best of my --

Mr. Ratcliffe. First of all, yes or no?

Mr. Baker. I believe that's correct.

Mr. Ratcliffe. All right. And then -- but ultimately, even though you were of a different opinion, he ultimately persuaded you that she should not be charged.

Mr. Baker. He and others, yes. I had discussions with numerous others.

Mr. Ratcliffe. All right. Thank you.

Mr. Jordan. Thank you.

Mr. Baker. Thank you.

Ms. Sachsman Grooms. We'll go back on the record.

I understand you have a hard stop, so I just have a couple quick followups.

BY MS. SACHSMAN GROOMS:

Q In the last round, I believe you said that you were uncomfortable to get too much factual information from Mr. Sussmann because you were not an agent?

A Uh-huh.

Q Can you explain what you mean by that?

A Well, I didn't want to -- I was trying to avoid becoming too much of a witness. So obviously he showed up, he had this material. I knew that I was going to be a witness of some sort in terms of the chain of custody, because he was giving it to me and then I was going to give it to agents.

So he made some statements, but I didn't want to conduct an interview like this or a deposition, or however you want to think about it, because I wanted to get this in the hands of the investigators and let them sort it out.

Q So your discomfort was related to the fact that you did not want to become a fact witness --

A In an investigation.

Q -- in an investigation?

A Yes.

Q Were you at all uncomfortable about the fact that he was giving you the information in itself?

A No.

Q You didn't think there was anything improper about that?

A No.

I knew Michael. He was a -- we had a prior existing relationship. He was bringing me material that he, as an -- at least as a citizen, if nothing else, thought was evidence either of a crime or of some threat to national security. And so he brought it to the FBI, which is the appropriate institution. And I, as a representative of the FBI, accepted it and then passed it off to the investigators.

Q Switching topics just quickly to Bruce Ohr. Was Bruce Ohr the number four person at the Department of Justice at the time?

A Well, I was running through that in my head. But I think -- I believe he was a deputy assistant attorney general. So attorney general, Deputy Attorney General, assistant attorney general, deputy assistant attorney general. I think that's how you would work it.

Q And there are a number of --

A But there are -- the SG, the solicitor general, and the associate attorney general cloud that picture in terms of who's number one, number two, number three, number four.

Q And there are a number of that -- roles that Bruce Ohr has, right?

A Yes, there are many number fours.

Q So even if he was the number four, he would be one of like seven or eight number fours?

A More than that, yeah. I don't even know how many. Still a high ranking position, the deputy assistant general. But, yes, there are many DAAGs, D-A-A-G-S.

Q And then your discussion -- you don't know what Nellie Ohr did or didn't do?

A I do not.

Q In your discussion in the previous round about what should or shouldn't be put into the FISA court was, more or less, hypothetical based on a hypothetical that Nellie Ohr had created information that then got turned over to her husband that then got turned over to the FBI. Is that right?

A Yes, because that would have -- yes, as a hypothetical, because I don't know any of those facts. And it has to do with the origin of the material, and the source of the material is something that's obviously relevant to a FISA application in terms of evaluating the reliability of that source.

Q Would your concern be obviated if Nellie Ohr was not involved in actually creating that material?

A Well, if she was not involved, then she wouldn't be a source of it. So, then, yes, that would be -- that would diminish my concerns.

Q Would your concerns be diminished if she just worked for the same employer?

A And had no role in the preparation of the material?

Q Yes.

A Yes, my concerns would be diminished.

Ms. Sachsman Grooms. Okay. I think that's all I have. Thank you very much.

[Whereupon, at 2:07 p.m., the interview was concluded.]